

SECTION 100

Written Statement Explanation of Changes

Pursuant to title 1, division 1, chapter 1, article 2, section 100(b)(1) of the California Code of Regulations (CCR), the Department of Developmental Services (Department) hereby submits this written statement explaining why the proposed amendments to title 17 do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

Section 56782(a)(1)

The current version of title 17, section 56782(a)(1) references the definition for “family member” in section 54302. Since the last regulatory action for section 56782(a)(1), the referenced definition has moved from section 54302(a)(22) to 54302(a)(29). The update to the appropriate subsection is necessary to accurately reference the definition for “family member.” The proposed amendment is a change without regulatory effect consistent with the provisions of title 1, CCR, section 100(a)(4) because it merely corrects a reference without altering the regulatory requirements.

Section 56782(a)(1)(A)

Senate Bill (SB) 1197 (Chapter 909, Statutes of 2024), amended Welfare and Institutions Code (WIC), section 4684, effective September 28, 2024, and revised the eligibility requirements for receiving in-home respite services. WIC, section 4684(d)(1) currently states:

“(d)(1) For purposes of this section, children who are recipients of AFDC-FC and regional center services shall not be prohibited from receiving in-home respite services, as defined in subdivision (a) of Section 4690.2, if they are residing with any of the following:

(A) A relative, as defined in paragraph (2) of subdivision (h) of Section 319, or, in the case of an Indian child, an extended family member, as defined in subdivision (c) of Section 224.1.

(B) A nonrelative extended family member, as defined in Section 362.7.

(C) A resource family, as defined in paragraph (1) of subdivision (c) of Section 16519.5.

(D) A tribally approved home, as defined in subdivision (r) of Section 224.1.

(E) A foster family home, as defined in paragraph (5) of subdivision (a) of Section 1502 of the Health and Safety Code, that is not vendored by the regional center as a residential facility.

(F) A small family home, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code, that is not vendored by the regional center as a residential facility. Regional centers shall assess a small family home for service need, including verification of the small family home's staffing level, through the individual program plan (IPP) process pursuant to Sections 4646 and 4648 or the individualized family service plan (IFSP) process pursuant to Sections 95018 and 95020 of the Government Code, as applicable, prior to approving in-home respite services for children residing in a licensed small family home."

WIC 4684(d) outlines the parameters for which individuals receiving AFDC-FC funding, who are also regional center consumers, may receive in-home respite services. Under the current CCR, individuals in foster care are excluded from receiving these services due to the identified eligibility requirement in section 56782(a)(1) of residing with a family member as defined in section 54302(a)(29). The Department adopted section 54782(a)(1)(A) to capture all children or non-minor child dependents who would qualify to receive in-home respite services based upon their eligibility under WIC 4684(d)(1). The Department included the clarifying language of "non-minor dependent" to account for the those residing in the foster care system between the ages of 18-20 as identified in WIC 4684(f).

Children eligible for in-home respite services pursuant to WIC 4684(d) are also regional center consumers and as such are still held to the same interdisciplinary (ID) team determination identified in section 56782(a)(1) pursuant to the individual program planning processes outlined in WIC section 4646 and 4646.5. As such, they are also subject to the requirement in section 56782(a)(2) pursuant to WIC 4646.5(a)(2).

The addition of section 56782(a)(1)(A) is necessary to bring the CCR into alignment with the current statutory language in WIC, section 4684(d). The Department has no discretion to adopt a change which differs in substance from the one chosen. This proposed adoption constitutes a change without regulatory effect consistent with title 1, CCR, section 100(a)(6)(A) and (B) and does not materially alter any requirement, right, responsibility, condition,

prescription or other regulatory element of any California Code of Regulations provision.

Section 56782(a)(2)

The amendment to add "IFSP" to section 56782(a)(2) is necessary to ensure clarity that regardless if a consumer has an IPP (the individual program plan for a regional center consumer age 3 or older) or an IFSP (the individualized family service plan for infants or toddlers under the California Early Intervention Services Act), the in-home respite objective must be clearly identified in the individual's plan. Government Code section 95020 outlines the requirements to complete an IFSP for infants or toddlers eligible under the California Early Intervention Services Act. Welfare and Institutions Code, section 4684, subsections (c)(1), (d)(1), and (d)(1)(F) clearly identify that consumers who are AFDC-FC benefit recipients, including infants and toddlers, shall not be prohibited from receiving in-home respite services. Because these services must be documented in the IFSP for consumers under the Early Intervention Services Act, the Department has no discretion to adopt a change which differs in substance from the one chosen. This amendment constitutes a change without regulatory effect consistent with title 1, CCR, section 100(a)(6)(A) and (B) and does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any California Code of Regulations provision.

Section 56782 Reference Citation

The proposed addition of WIC, section 4684 to the reference citation is a change without regulatory effect, consistent with the provisions of title 1, CCR, section 100(a)(5), as it reflects the amended California statute.