



## **Medi-Cal for Foster Youth and Presumptive Transfer: Basic Requirements and Applicability**

This fact sheet provides an overview of presumptive transfer, waivers, applicability for special populations and placements, as well as recent legal updates.

### ***What is presumptive transfer?***

Presumptive transfer was established by AB 1299 (Ridley-Thomas 2016). It provides for the prompt transfer of the responsibility for providing and paying for specialty mental health services (SMHS) for children and youth in foster care when they are placed outside of their county of original jurisdiction.<sup>1</sup> The goal of presumptive transfer is to provide children and youth in foster care with timely access to SMHS, consistent with their individual strengths and needs and Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) requirements.<sup>2</sup>

Presumptive transfer is required under the following conditions:

- (a) A foster child is placed in a county other than the county of original jurisdiction on or after July 1, 2017.
- (b) A foster child who resides in a county other than the county of original jurisdiction after June 30, 2017, and is not receiving specialty mental health services consistent with their mental health needs, requests transfer of responsibility.
- (c) A foster child who resided in a county other than the county of original jurisdiction after June 30, 2017, and who continues to reside outside the county of original jurisdiction after December 31, 2017, shall have jurisdiction transferred no later than the child's first regularly scheduled status review hearing conducted pursuant to Section 366 in the 2018 calendar year unless an exception applies.<sup>3</sup>

### ***Can presumptive transfer be waived?***

On a case-by-case basis, and when consistent with the medical rights of children and youth in foster care, presumptive transfer may be waived so that responsibility for the provision of SMHS remains with the county of original jurisdiction if any of the following exceptions exist:

- (a) It would disrupt continuity of care or delay access to services;
- (b) It would interfere with family reunification efforts document in the individual case plan;

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<sup>1</sup> Cal. Welf. & Inst. Code § 14717.1(c).

<sup>2</sup> Cal. Welf. & Inst. Code § 14717.1(a)(2).

<sup>3</sup> Cal. Welf. & Inst. Code § 14717.1(c)(1)-(2).

- (c) The placement outside of the youth’s county of original jurisdiction is expected to last less than six months; or
- (d) The youth residence is within 30 minutes of travel time to the established SMHS provider in the county of original jurisdiction.<sup>4</sup>

A request for waiver can be made to the county placing agency by:

- (a) The foster child;
- (b) The person or agency responsible for making mental health care decisions on their behalf;
- (c) The county probation agency or child welfare services agency with responsibility for the care and placement of the child; or
- (d) Any other interested party who owes a legal duty to the child involving the child’s health or welfare, as defined by the department.<sup>5</sup>

The waiver request must be made within 7 calendar days of the placing agency’s determination to place the child out of county, and must include, at minimum: the child’s name; the name and contact information of the requester and their legal relationship to the child; and a brief description of the claimed exceptions.<sup>6</sup>

The county placing agency must consult with the child and their parent, Child and Family Team (CFT), and other appropriate professionals providing services to the child to determine whether waiver of presumptive transfer is appropriate.<sup>7</sup> The person who requested the waiver, along with other parties to the case, must receive notice of the county agency’s determination, and may request a court hearing before the determination becomes final.<sup>8</sup> The placing agency must inform the mental health plan in the county of original jurisdiction within three business days of a final determination for a waiver.<sup>9</sup>

A waiver shall be contingent upon the mental health plan in the county of original jurisdiction demonstrating an existing contract with a SMHS provider, or the ability to enter into a contract, single case agreement, or other service payment mechanism within 30 days of the waiver decision, and the ability to deliver timely services directly to the child.<sup>10</sup> The case plan must include the request for waiver, claimed exceptions, the determination, any objections, and the

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<sup>4</sup> Cal. Welf. & Inst. Code § 14717.1(d)(1), (5). See also CA Rules of Court 5.647.

<sup>5</sup> Cal. Welf. & Inst. Code § 14717.1(d)(2).

<sup>6</sup> Dep’t of Health Care Servs., *All County Letter (ACL) No. 17-77, Mental Health and Substance Use Disorder Services (MHSUDS) Information Notice No. 17-032* 8 (Jul. 14, 2017), <https://www.cdss.ca.gov/Portals/9/ACL/2017/17-77.pdf?ver=2019-06-26-140453-853> [“ACL 17-77/MHSUDS 17-032”].

<sup>7</sup> Cal. Welf. & Inst. Code § 14717.1(d)(3).

<sup>8</sup> Cal. Welf. & Inst. Code § 14717.1(d)(3)-(4).

<sup>9</sup> ACL 17-77/MHSUDS 17-032 at 9.

<sup>10</sup> Cal. Welf. & Inst. Code § 14717.1(d)(6).

mental health plan's ability to pay for and provide SMHS must be documented in the child's case plan.<sup>11</sup>

### ***What does the process look like?***

For a detailed description and timelines of the procedural requirements, see [All County Letter \(ACL\) No. 18-60/Mental Health and Substance Use Disorder Services Information \(MHSUDS\) Notice No. 18-027](#) and [ACL No. 17-77/MHSUDS Information Notice No. 17-032](#). ACL No. 18-60/MHSUDS Information Notice No. 18-027 also includes flowcharts and template forms.

#### **Before Transfer:**

Before placing a child out of county, the county placing agency must notify the foster child, the person or agency responsible for making mental health care decisions on behalf of the foster child, and the child's attorney of the presumptive transfer requirement, exceptions, and how to request a waiver.<sup>12</sup> When a waiver is requested, the county agency must notify these same parties, as well as the CFT coordinator, or the social worker/probation officer, and the mental health plan in the county of original jurisdiction.<sup>13</sup>

Discussions regarding presumptive transfer should occur with the child and their parent, Child and Family Team (CFT) members, and in consultation with other professionals who serve the child or youth, as appropriate.<sup>14</sup> CFT members can engage with the placing agency to consider the length of placement and whether presumptive transfer of SMHS would benefit the foster child or youth and support family reunification efforts or if an exception to presumptive transfer exists.<sup>15</sup>

To support service delivery, continuity of care, and timely payment, the placing agency shall provide notification via email to the mental health plan of the new county before placing a foster child out of county.<sup>16</sup> If notification before placement is not possible, the placing agency shall notify the appropriate mental health plan no later than three business days after making the out-of-county placement.<sup>17</sup>

#### **Upon Transfer:**

The mental health plan in the county in which the foster child resides must accept an assessment of the child's needed services completed by the county of original jurisdiction.<sup>18</sup> The mental

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<sup>11</sup> Cal. Welf. & Inst. Code § 14717.1(d)(6)-(7).

<sup>12</sup> ACL 17-77/MHSUDS 17-032 at 4.

<sup>13</sup> ACL 17-77/MHSUDS 17-032 at 4.

<sup>14</sup> ACL 17-77/MHSUDS 17-032 at 2.

<sup>15</sup> ACL 17-77/MHSUDS 17-032 at 3.

<sup>16</sup> Cal. Welf. & Inst. Code § 14717.1(f)(2).

<sup>17</sup> Cal. Welf. & Inst. Code § 14717.1(f)(2).

<sup>18</sup> Cal. Welf. & Inst. Code § 14717.1(e).

health plan in the county in which the foster child resides may conduct additional assessments if the foster child's needs change or an updated assessment is needed to determine the child's needs and identify the needed treatment and services to address those needs.<sup>19</sup>

When SMHS are transferred to the youth's county of residence, the SMHS providers in that county become part of the youth's CFT.<sup>20</sup> Even after SMHS are transferred, the child welfare agency or probation department that maintains jurisdiction of the youth's foster care case maintains responsibility for ensuring that a CFT exists and meetings are convened.<sup>21</sup>

#### Expedited Transfer:

The law requires a procedure for expedited transfer of SMHS responsibility within 48 hours of a child's out-of-county placement.<sup>22</sup> Presumptive transfer of the responsibility to pay for and provide SMHS takes effect immediately upon placement.<sup>23</sup> When a child must be moved to an out-of-county placement for their safety before a CFT meeting is able to be convened, the county placing agency must immediately contact the mental health plan in the new county to provide notice of the placement and the need to provide and pay for SMHS to meet the needs of the child.<sup>24</sup> When a foster child is in imminent danger to themselves or others or experiencing an emergency psychiatric condition, mental health plans must provide SMHS immediately and without prior authorization.<sup>25</sup>

#### ***Does presumptive transfer apply to all SMHS?***

Presumptive transfer applies to SMHS, but does not distinguish between inpatient and outpatient SMHS. However, for psychiatric inpatient hospital services, the applicability of presumptive transfer depends on the specific scenario regarding where the youth resides, where they are hospitalized, and whether transfer has been waived.<sup>26</sup> For example, if a foster youth receives psychiatric inpatient hospital services out-of-county, presumptive transfer does not occur because the hospital is not a foster placement and therefore there has been no new foster placement in another county.

While the intent of presumptive transfer is for only one county mental health plan to provide SMHS to a child or youth in foster care, there are times when it may be appropriate for **both the county of original jurisdiction and the county of residence** to provide SMHS.<sup>27</sup> This includes

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<sup>19</sup> Cal. Welf. & Inst. Code § 14717.1(e).

<sup>20</sup> Dep't of Health Care Servs., *All County Letter (ACL) No. 18-60, Mental Health and Substance Use Disorder Services (MHSUDS) Information Notice (BHIN) 18-027* 6 (Jun. 22, 2018), <https://www.cdss.ca.gov/Portals/9/ACL/2018/18-60.pdf> ["ACL 18-60/MHSUDS 18-027"].

<sup>21</sup> ACL 18-60/MHSUDS 18-027 at 6.

<sup>22</sup> Cal. Welf. & Inst. Code § 14717.1(b)(2)(f).

<sup>23</sup> ACL 18-60/MHSUDS 18-027 at 2.

<sup>24</sup> ACL 18-60/MHSUDS 18-027 at 3.

<sup>25</sup> ACL 18-60/MHSUDS 18-027 at 2-3.

<sup>26</sup> For a more detailed explanation, see ACL 18-60/MHSUDS 18-027 at 12.

<sup>27</sup> ACL 18-60/MHSUDS 18-027 at 11.

when the youth or their family members have an established relationship and will continue providing services during the transition to providers in the new county.<sup>28</sup>

Presumptive transfer does not apply to substance use disorder treatment services. Responsibility for these services under the Drug Medi-Cal benefit remains with the county of original jurisdiction, even if SMHS are transferred to the county of residence.<sup>29</sup>

### ***Does presumptive transfer apply to short-term placements?***

Effective July 1, 2024 and pursuant to AB 1051, presumptive transfer does not apply when a youth is placed outside of their county of original jurisdiction in a group home, short-term residential therapeutic program (STRTP), community treatment facility (CTF), or children’s crisis residential program (CCRP).<sup>30</sup> Because group home and STRTP placements are intended to be short term, and because CTF placements and CCRP admissions are intended to be time-limited based on medical necessity, the responsibility for the provision of or arrangement for SMHS for a foster child throughout the short-term or time-limited placement or admission shall remain with the county of original jurisdiction.<sup>31</sup>

There are two exceptions in which presumptive transfer will apply to these short-term residential placements: (1) the youth’s case plan specifies that the child will transition to a less restrictive placement in the same county as the facility in which the child has been placed; and (2) the placing agency determines, as informed by the Child and Family Team (CFT), that the child will be negatively impacted if responsibility for SMHS is not transferred to the same county as the facility in which the child has been placed.<sup>32</sup> For the second exception, the placing agency must document the basis for this determination in the child’s case record and may include in a CFT meeting the mental health plan of the receiving county where the facility is located, in order to encourage local coordination.<sup>33</sup> As soon as possible upon accepting the placement or admission of a child or youth in foster care from another county, the facility should notify the mental health plan responsible for arranging or providing SMHS.<sup>34</sup>

The requirements for presumptive transfer described in Welfare & Institutions Code Section 14717.1 continue to apply when children and youth in foster care are placed with relatives, non-

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<sup>28</sup> ACL 18-60/MHSUDS 18-027 at 11.

<sup>29</sup> ACL 18-60/MHSUDS 18-027 at 12-13.

<sup>30</sup> Cal. Welf. & Inst. Code § 14717.2(b).

<sup>31</sup> Cal. Welf. & Inst. Code § 14717.2(a)(3).

<sup>32</sup> Cal. Welf. & Inst. Code § 14717.2(b)(1)-(2).

<sup>33</sup> Cal. Welf. & Inst. Code § 14717.2(b)(2).

<sup>34</sup> Dep’t of Health Care Servs., *All County Letter (ACL) No. 24-43, Behavioral Health Information Notice (BHIN) 24-025 5* (Jun. 28, 2024), <https://www.dhcs.ca.gov/Documents/BHIN%2024-025-ACL%2024-43%20Presumptive%20Transfer%20Policy.pdf> [“ACL 24-43/BHIN 24-025”].

relative extended family members, resource families in Therapeutic Foster Care homes, or in any other settings outside of their county of original jurisdiction.<sup>35</sup>

***Does presumptive transfer apply to other populations of youth?***

Presumptive transfer only applies to youth in foster care who are current dependents of the court. It does not apply to children and youth who receive assistance under the Kinship Guardianship Assistance Program (Kin-GAP) or the Adoption Assistance Program (AAP) as they are no longer dependents of the court.<sup>36</sup> For youth receiving Kin-GAP and AAP assistance, the county of original jurisdiction remains responsible for authorizing and reauthorizing SMHS under Welfare & Institutions Code Sections 11376 and 16125.<sup>37</sup> For these youth, SB 785 Service Authorization Request (SAR) process would still apply to ensure those children have access to services promptly.

Under the SAR process, the county of residence’s Mental Health Plan (MHP) is responsible for submitting a treatment authorization request (TAR) to the MHP of the county of origin. The public or private services provider prepares the TAR. The county of origin retains responsibility for authorization of services using an “expedited TAR process.”<sup>38</sup>

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<sup>35</sup> ACL 24-43/BHIN 24-025 at 3.

<sup>36</sup> ACL 18-60/MHSUDS 18-027 at 9-10.

<sup>37</sup> ACL 18-60/MHSUDS 18-027 at 10.

<sup>38</sup> Cal. Welf. & Inst. Code §§ 11376 and 16125, ACL 18-60/MHSUDS 18-027 at page 9.