

BROADCAST 9176

DATE: June 1, 2015

TO: Local DSS
CSA Coordinators
CPMT Chairs
Private Providers

FROM: Carl Ayers, Director, Division of Family Services, VDSS
Susie Cumbia Clare, Executive Director, OCS

SUBJECT: Provision of Services to Youth who turn Age 18 in Foster Care-***Frequently Asked Questions (FAQ)***

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The Virginia Department of Social Services (VDSS) and the Office of Comprehensive Services (OCS) are receiving many questions regarding the local implementation of VDSS Broadcast #9088 *“Clarification regarding the Provision of Services to Youth who turn 18 while in Foster Care.”* While the individual questions are being answered directly, there are several repeated questions of broader applicability for which answers are provided below.

Question #1: Are children receiving Independent Living Services (IL) “mandated” by the Comprehensive Services Act (CSA)? If so, is the IL stipend of \$644 a month the only allowable service?

Response: The Code of Virginia (§63.2-905; §2.2-5211; §2.2-5212) requires that youth who are eligible for “foster care services”...“including but not limited to independent living services” (COV §63.2-905) are eligible and mandated for services under the Comprehensive Services Act. IL services are identified as a foster care service appropriate for former foster youth who are now ages 18-21 (COV §63.2-905; §63.2-905.1). Youth in this age range are “otherwise eligible for mandated services.” (COV §2.2-5212 B).

The IL stipend is not the only service which may be provided to former foster youth over the age of 18 who are eligible for IL Services. IL services are defined by federal and state child welfare laws, regulations and policies. The VDSS IL services definition incorporates a broad range of IL services to support and promote self-sufficiency for youth ages 18-21.

If a youth’s eligibility is established, and the Family Assessment and Planning Team (FAPT) recommends individualized IL services, and the Community Policy and Management Team (CPMT) authorizes funding, then the state and local governments are obligated to “appropriate such sums of money as shall be sufficient” to support these IL services. (COV §2.2-5211).

Question #2: Can maintenance payments, including those determined by the VEMAT, be made to a foster parent for a youth age 18 or older who remains in the foster home?

Response: No, with limited exceptions. To understand this response, it is necessary to review the statutory authority given to a local DSS. Please see the excerpt from the Code of Virginia below:

*§63.2-900. Accepting children for placement in homes, facilities, etc., by local boards.
A. Pursuant to § [63.2-319](#), a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians... The local board shall, in accordance with the regulations adopted by the Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority. (Italics added.)*

The Code of Virginia (§63.2-900) gives local Departments of Social Services (LDSS) the authority to “accept for placement” children under the age of 18. This authority (custody, entrustment or commitment) to place this child ends when “he is lawfully discharged, has been adopted or has attained his majority.” Thus youth 18 or older are no longer in the custody of LDSS, may not be “placed” by LDSS, and may not receive “placement” services such as maintenance payments to foster parents to care for the youth.

The exceptions for when maintenance may be paid for a youth over the age of 18 are outlined in Broadcast #9088 (when youth are subject to a court approved permanent foster care agreement; or a youth is age 18, in school, and will graduate prior to his/her 19th birthday).

Question #3: Can maintenance payments be made to a Licensed Child Placing Agency (LCPA) to cover the costs of room and board, personal incidentals, clothing, etc. for a youth in an IL living arrangement?

Response: No, maintenance may not be paid to LCPAs who are coordinating IL arrangements for youth ages 18 or older either in a former foster home or an apartment. Maintenance payments are made to a foster parent or an LCPA to provide for the child’s shelter, food, clothing, etc. only for a child in the custody of LDSS. Youth ages 18-21 in IL arrangements are not in the custody of LDSS. The youth’s stipend, however, may be used to pay housing costs or rent as part of an IL arrangement with a family or an LCPA.

Again, the exceptions for when maintenance may be paid for a youth over the age of 18 are outlined in Broadcast #9088 (when youth is subject to a court approved permanent foster care agreement; or a youth is age 18, is in school, and will graduate prior to his/her 19th birthday).

Question #4: Title IV-E permits the payment of maintenance for a youth to continue in a foster home if the youth is 18 years old, is in school, and will graduate from high school prior to his/her 19th birthday. Does this same provision apply to youth whose placements are supported by CSA?

Response: Yes. Youth in foster care placement who are age 18, but will graduate by their 19th birthday remain eligible for maintenance payments through the graduation month, regardless of the payment source.

Question #5: Our locality has heard the deadline for transitioning youth ages 18-21 that are not otherwise eligible for foster care placement is July 1, 2015. Is this date accurate?

Response: No. There is no deadline or date by which these identified youth must be transitioned to alternative living arrangements or funding transitioned to long-term funding streams. Emphasis is currently placed on the responsibility of the LDSS and the Family Assessment and Planning Team to develop plans for transition to services that meet the definition of IL services and/or to identify funding streams which are sustainable into the future to meet the youth's individual needs. As each youth's circumstances and complexity of needs varies, it may be easier to accomplish transition more quickly for some youth than others.

As stated in the Broadcast, local departments should not enter into new placement agreements for youth who are not eligible for foster care placements.

Question #6: What services are allowable to be provided to youth in IL arrangements? Specifically, what services can LCPAs or other community providers offer that would be in compliance with Broadcast #9088 and CSA guidelines?

Response: Individualized wrap-around services may be developed by the FAPT and purchased from providers, including LCPAs, for youth in independent living arrangements, whether they are in former foster homes or apartments. Categories of independent living services are listed in the VDSS Foster Care Manual, Section 14.10 and include, but are not limited to, academic support, budget and financial management assistance, mentoring, career preparation, health education and risk prevention, and supervision of IL apartment arrangements. For more information about IL services, please see [Section 14 achieving permanency for older youth.pdf](#)

Please continue to contact your Regional Permanency Consultant with questions about specific case situations. For difficult or hard-to-resolve circumstances, please contact Carl Ayers with VDSS at Carl.E.Ayers@dss.virginia.gov. For questions about CSA, please contact Carol Wilson with OCS at carol.wilson@csa.virginia.gov or (804) 662-9817.