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## EVALUATOR MANUAL TRANSMITTAL SHEET

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<b><u>Distribution:</u></b>  <input type="checkbox"/> All Child Care Evaluator Manual Holders <input type="checkbox"/> All Residential Care Evaluator Manual Holders <input checked="" type="checkbox"/> All Evaluator Manual Holders	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;"><b><u>Transmittal No.</u></b></td> </tr> <tr> <td style="padding: 2px;"><b>06APX-12</b></td> </tr> <tr> <td style="padding: 2px;"><b><u>Date Issued</u></b></td> </tr> <tr> <td style="padding: 2px;"><b>September 2006</b></td> </tr> </table>	<b><u>Transmittal No.</u></b>	<b>06APX-12</b>	<b><u>Date Issued</u></b>	<b>September 2006</b>
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**Subject:**

### COUNTY CIVIL PENALTIES MANUAL - APPENDIX I

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**Reason For Change:**

New Appendix I

The County Civil Penalties Manual gives counties instructions on assessing civil penalties against Foster Family Homes and Family Child Care Homes.

Each county may designate a Civil Penalty Coordinator who will be responsible for completing all processing steps outlined in this manual.

**New Pages**

INSERT: Pages 1 – 11 including the County Civil Penalty Checklist and the County Civil Penalty Coordinator Checklist/Transmittal

**Approved:**

*Thomas Stahl, Chief*

*9/22/06*

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**THOMAS STAHL, Chief**  
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# **COUNTY CIVIL PENALTIES MANUAL**

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The following forms can be found at the end of Appendix I:

County Civil Penalty Checklist

County Civil Penalty Coordinator Checklist/Transmittal

## COUNTY CIVIL PENALTIES MANUAL

### GENERAL STATEMENT

A Civil Penalty (CP) is a fine that the licensing agency assesses against a licensed or an unlicensed operator for not complying with the laws and regulations that apply to them.

For foster family homes, there are two categories for which a CP shall be assessed.

1. Unlicensed facility operation.
2. Criminal Record Clearance violations.

However, for family child care homes, there are eight categories for which a CP shall be assessed.

1. Unlicensed facility operation.
2. Criminal Record Clearance violations.
3. Criminal Record Exemption violations.
4. Failure to provide parents with certain notification of rights.
5. Failure to inform parents of their right to know if any adult has been granted a criminal record exemption.
6. Failure to comply with requirement to return signed confirmation of removal form within five days of receiving a notice of exclusion.
7. Failure to comply with 30 day posting requirements.
8. Failure to allow parent or authorized representative to enter and inspect the facility during hours of operation.

Each county may want to designate a Civil Penalty Coordinator who will be responsible for completing all processing steps outlined in this manual. ***Please note that the county's civil penalty citation, assessment, and collection process is part of the random annual review conducted by CDSS County Liaisons.***

**Note:** For homes dually licensed as a foster family home and family childcare home, please refer to Evaluator Manual Sections 1-0055 and 7-1100 for background check procedures for 18-year olds.

### FOSTER FAMILY HOMES

#### Unlicensed Facility Operation:

CPs shall be assessed when it has been verified that all of the following are present:

- Has children in care and is not license exempt by statute or regulation, and the operator has failed to either cease operation or file an application within 15 days of issuance of a "Notice of Operation in Violation of Law."

**Criminal Record Clearance:**

CPs shall be assessed when it has been verified that the licensee:

- Has not obtained a California background clearance or criminal record exemption on individuals for whom a background check is required, or
- Has failed to have background cleared individuals associated to their facility.

**FAMILY CHILD CARE HOMES****Unlicensed Facility Operation:**

CPs shall be assessed when it has been verified that the home:

- Has children in care and is not license exempt by statute or regulation, and
- the operator has failed to either cease operation or file an application within 15 days of issuance of a "Notice of Operation in Violation of Law."

**Criminal Record Clearance:**

CPs shall be assessed when it has been verified that the licensee:

- Has not obtained a California background clearance or criminal record exemption on adults for whom a background check is required, or
- Has failed to have background cleared adults associated to their facility.

**Criminal Record Exemption:**

CP shall be assessed when it has been verified that the licensee:

- Failed to act immediately to remove from the facility or bar from entering the facility, upon notification from the Department, any person, while the Department considers granting or denying an exemption.
- Failed to return the confirmation of removal form within five days of receipt that confirms, under penalty of perjury, that the adult(s) has been removed from the facility.

**Failure to provide parents with Notification of Parent's Rights:**

CPs shall be assessed when it has been verified that the licensee:

- Has not provided parents with the "Addendum to Notification of Parent's Rights" (regarding Removal/Exclusion).
- Has failed to provide a copy of the "Addendum to Notification of Parent's Rights" (Regarding Reinstatement) of an individual from the home, to one parent or authorized representative of every child in care.
- Does not have a file copy of the form with a parent's or authorized representative's signature indicating that he/she has been provided with each Addendum.
- Does not provide parents with appropriate right's forms (LIC 995A, LIC 995E) or posts required forms (PUB 394) after being cited and not correcting by Plan Of Correction (POC) date.

CPs shall be assessed when a licensee fails to inform parents of their right to be informed of any adult employee or resident granted a criminal record exemption after being cited and not correcting by POC date:

- Licensee has not, upon request, informed parents of the name of the individual who has been granted a criminal record exemption and their association to the facility and/or fails to document parents' request.

**Posting of Site Visit Notices and Licensing Reports:**

A Notice of Site Visit Report must be posted in the FCCH, adjacent to the front door, for 30 days when clients are in care, which indicates:

- Whether the facility was cited for violating ANY regulation, and
- Whether the citations were either Type A that would result in an immediate risk; or Type B that could become a risk, or record keeping that would impact care or required services to the children.

Licensees must also post licensing reports that document a facility visit OR complaint investigation that resulted in a Type A violation.

CPs shall be assessed when it has been verified that the licensee:

- Has removed the "Notice of Site Visit Report" before the 30 day time period, or
- Has removed any licensing reports which are required to be posted before the 30 day time period.

**Failure to Comply With Requirement to Allow Parent/Authorized Representative to Enter and Inspect the Facility**

CPs shall be assessed if the licensee:

- Refuses the parent or authorized representative of a child in care, the right to enter and inspect the family child care home during normal operating hours, or
- Discriminates or retaliates against a parent or authorized representative because they have exercised his or her right to inspect the family child care home or has lodged a complaint with the Department against the family child care home. The civil penalty shall apply after a warning citation has been issued and a subsequent violation has occurred.

**CIVIL PENALTY FORMS**

**LIC 178 Penalty Review** - This form, in a letter format, must be completed by the supervisor if he/she reviews a civil penalty assessment for which an appeal or request for review has been received. This form is also used to approve a civil penalty payment plan.

**LIC 421A Civil Penalty Assessment (Unlicensed Facility)** - This form will be completed by the licensing worker and a copy left at the facility at the time of the visit. This form is for unlicensed facilities.

**LIC 421B Civil Penalty Assessment (Immediate)** - This form will be completed by the licensing worker, and a copy left at the facility at the time of the visit. This form is for the immediate assessment of civil penalties for failure to comply with criminal background clearance requirements, or notification and posting requirements for family child care homes.

**LIC 421 Civil Penalty Assessment** - This form is for the assessment of all other types of civil penalties for Family Child Care Homes.

**LIC 422 Notice of Civil Penalties Due** - The invoice to be sent to the licensee requiring payment of the civil penalty or penalties assessed on one of the following LIC 421, LIC 421A or LIC 421B.

**LIC 422A Civil Penalty Ledger - Payment, Reduction, or Waiver Record** -The form, one for each facility, on which to record the payments received from that facility, as well as any waivers or reductions in the penalty granted by the licensing supervisor or manager.

**LIC 809 Facility Evaluation Report** - The violation that is the basis for a civil penalty must be cited on the LIC 809 for the facility visit.

The forms listed above can be accessed via the CDSS website:

1. Go to <http://www.dss.cahwnet.gov>
2. Click on left hand side, Forms and Publications link.
3. Scroll to Community Care Licensing Division and click on (LIC)



The following checklists are located at the end of this manual:

- **County Civil Penalty Coordinator Checklist/Transmittal** - This is a checklist that may be used by the civil penalty coordinator to ensure that all the appropriate documentation is sent to CDSS.
- **County Civil Penalty LPA Checklist** - This is a checklist which may be used by the licensing staff when routing to their supervisor for approval.

**Note:** When completing the CP checklists, make sure you indicate the correct PCA code for the facility types.

**PCA Billing Codes for facility types:**

- 84773 for Foster Family Homes
- 74262 for Family Child Care Homes

**ISSUING CIVIL PENALTIES:**

For any civil penalty assessed:

1. Licensing worker completes Facility Evaluation Report (LIC 809), cites the facility and discusses on this report that if deficiencies are not corrected by the Plan of Correction (POC) date, civil penalties will be assessed, or if immediate civil penalties are being assessed, cite the facility for immediate civil penalties on the LIC 809.
2. Licensing worker also completes a facility Civil Penalty Assessment form (LIC 421, 421A, or 421B) describing those regulatory sections and/or Health and Safety Code sections that have been violated.
3. Licensing worker leaves copies of LIC 809 and LIC 421, 421A, or 421B at the facility.
4. Licensing worker gives copies of LIC 809 and LIC 421, 421A, or 421B and all other documents involved with the civil penalty for this facility, to his/her supervisor for review.
5. If licensee appeals within 10 days, the licensing supervisor reviews the appeal request and all pertinent licensing documents and reports. The supervisor then approves, reduces, or waives the civil penalty assessment, if appropriate, as outlined in the Penalty Adjustments section below.

## Penalty Adjustments

When a civil penalty is assessed for an unlicensed facility, the facility operator or designated representative has the right to appeal the penalty assessment within **10 working days of the mailing** of the penalty assessment. The appeal review must be conducted by the licensing worker's supervisor.

If the penalty assessment was **not** issued in accordance with the applicable licensing statutes and regulations, the supervisor has the authority to amend or dismiss the penalty assessment. The filing of an appeal does not automatically provide the authority to amend or waive a civil penalty. The authority to amend or reduce a civil penalty may only be reduced or dismissed if the civil penalty was not assessed in accordance with the governing statutes and/or regulations.

- If the supervisor amends the civil penalty amount after the Initial Invoice, LIC 422, has been sent, note the adjustment on the LIC 422A. Enter the amount of the reduction in the "Amount" column, and the resulting new balance in the "Cumulative Balance" column. The supervisor may note comments in the "Comment" section and sign his/her name.
- If the supervisor dismisses the civil penalty, file the paperwork and place the facility CP folder (See Section 1-0093) in a "closed/dismissed" file and sign in the comments section.
- The supervisor also has the authority to approve an installment payment plan for penalty assessments. The supervisor must use the LIC 178, to approve a civil penalty payment plan. The agreed upon plan may be noted in the "Explanation" section of the form. If a payment plan is approved, do not send additional invoices unless a payment is missed.

## CREATING A CIVIL PENALTY FOLDER

When a civil penalty is assessed, a folder should be created to file all related documents. The folder may be created once the CP is issued but it is recommended that it be done after the 10-day appeal timeframe is over to reduce the volume of copying.

Each CP folder should contain the following, as applicable:

- Facility Evaluation Report (LIC 809)
- Civil Penalty Assessment (LIC 421)  
Civil Penalty Assessment (Unlicensed Facility) (LIC 421A)  
Civil Penalty Assessment (Immediate) (LIC 421B)
- Double check that the address on the LIC 421, 421A, or 421B and the LIC 809 agree with the official facility mailing address. If different, resolve the difference with the licensing worker.
- Penalty Review (LIC 178) - Use this form if the supervisor has approved any penalty adjustment or payment plan. (Refer to Section 1-0092)
- Notice of Civil Penalties Due (LIC 422) - Complete this form using the information from the 421A, 421B and the LIC 809. Make sure that you assign an invoice number using your county's numbering system.  
**(Each county is responsible for developing their own invoice, numbering and identification system, i.e. County Invoice numbers can begin with #1.)**
  - a. Civil Penalty Ledger Payment, Reduction, or Waiver Record (LIC 422A)
  - b. All other forms, contact sheets or correspondence relating to the CP.
  - c. Send the original LIC 422 and a copy of the LIC 421, LIC 421A, LIC 421B to the facility operator using **certified mail**. Be sure to print the CP invoice number on the front of the green certified mail slip.

(This lets you know in which CP file to put the receipt when it is mailed back to you.) The mailing of the original LIC 422 to the facility operator is notification of the "Initial Invoice" of a CP. Payment is due 30 days from the date of mailing.

## PROCESSING PAYMENTS

Checks or money orders for civil penalties collected are to be made payable to the county licensing department. Checks and money orders must be kept in a centralized locked area with restricted access. Once the county has collected the civil penalty fees, the fees are to be remitted to the CDSS in one county check per quarter (once every three months).

**The check is to be sent to:**        **California Department of Social Services  
Central Office Cashiering  
744 P Street, M.S. 3-67  
Sacramento, CA 95814**

### Accompanying documentation must specify the following:

- Purpose-Civil Penalty Assessments
- Type of facility
- County of origin and PCA Code Number (84773 for Foster Family Homes and/or 74262 for Family Child Care Homes)
- The amount of fees collected

If full payment is received for the civil penalty, do the following:

1. Stamp "Paid in Full" on a copy of the LIC 422 and mail to the licensee's mailing address by regular mail.
2. Close the CP file and place with other closed CP cases.

If payment received was a partial payment only, do the following:

1. Complete a new Invoice LIC 422 Notice of Civil Penalty Due.
2. Complete the top form using the same information as the original invoice, including the same invoice number.
3. Complete the "Penalty Amount Due, Less Payments Received" (this is the amount of all payments received to date) and the "Balance Due" portions of the form.
4. Send the invoice to the licensee.
5. Place of copy of new LIC 422 in the CP folder.
6. If the licensee does not make another payment within 15 working days of the mailing date of this new invoice, refer to your county procedures for further collection action.

If payment is not received within 30 days, do the following:

1. Make a copy of the original LIC 422 and clearly mark it "**Final Notice**".
2. Send the Final Notice by **certified mail** to the same address the Initial Notice was sent.
3. Place a copy of the Final Notice in the CP folder.
4. Refer to your county procedures for further collection action.

## COUNTY CIVIL PENALTY CHECKLIST

County: \_\_\_\_\_ Date: \_\_\_\_\_

Licensing Evaluator: \_\_\_\_\_

1. Enter facility name and number in space provided.
2. Please provide the required documentation.
3. Please provide the license identification information.
4. Route to Supervisor for signature (*within **five** days of clearing date*).
5. Supervisor route to Civil Penalty clerk for billing.

**PLEASE INCLUDE THE FOLLOWING REQUIRED DOCUMENTATION:**

- Civil Penalty Assessment (*LIC 421*)
- Civil Penalty Assessment (*Unlicensed Facility - LIC 421A*)
- Civil Penalty Assessment (*Immediate -LIC 421B*)
  
- Citing and/or Assessing - LIC 809
- Plan of Correction (*Clearing*) - LIC 809
- Penalty Review - LIC 178 (*if applicable*)
- Other Related Documents
- Amount Assessed Per Day \$ \_\_\_\_\_

**Total amount billed \$** \_\_\_\_\_

**Covering period from** \_\_\_\_\_ **thru** \_\_\_\_\_

Licensee(s): \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Social Security Number: \_\_\_\_\_

Driver's License: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**FACILITY NAME:** \_\_\_\_\_

**FACILITY NUMBER:** \_\_\_\_\_

**Licensing has addressed and resolved the appeal process, if any, according to the instructions on the Penalty Review LIC 178. Civil Penalty assessment approved to process and bill pursuant to the supervisors signature.**

**LICENSING EVALUATOR** \_\_\_\_\_ **DATE** \_\_\_\_\_

**SUPERVISOR** \_\_\_\_\_ **DATE** \_\_\_\_\_

# COUNTY CIVIL PENALTY COORDINATOR CHECKLIST/TRANSMITTAL

County \_\_\_\_\_ Date \_\_\_\_\_

Licensing Evaluator \_\_\_\_\_

- 1. Civil Penalty (CP) Coordinator assigns an invoice number.
- 2. CP Coordinator creates a civil penalty folder for each facility.
- 3. CP Coordinator reviews all applicable forms for completion and required signatures. The CP Coordinator completes and processes the Notice of Civil Penalties Due (LIC 422)
- 4. CP Coordinator completes the Civil Penalty Ledger (LIC 422A) to document civil penalty assessment, payments, waiver and/or reduction record.
- 5. CP Coordinator sends original Notice of Civil Penalties Due (LIC 422) and a copy of the Penalty Assessment (LIC 421, 421A or 421B) to the licensee using certified mail
- 6. Checks or Money Orders for civil penalties collected are to be made payable to "County Licensing Department". Once the County has collected the civil penalty fees, the **fees are to be remitted payable to the CDSS in one county check quarterly to:**

**CDSS Cashiering  
744 "P" Street, M.S. 3-67  
Sacramento, California 95814**

**Include on the check and cover letter:**

- Name of the County
- Purpose = Civil Penalty
- PCA Code – 84773 for Foster Family Home  
74262 for Family Child Care Home

- 7. Keep copies of all checks, money orders, forms, and logs in the civil penalty file. Place copy of the paid invoice in the facility file.

Date sent to CDSS: \_\_\_\_\_

Civil Penalty Coordinator: \_\_\_\_\_