
EVALUATOR MANUAL TRANSMITTAL SHEET

<u>Distribution:</u> <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;"><u>Transmittal No.</u></td> </tr> <tr> <td style="padding: 2px;">11APX-07</td> </tr> <tr> <td style="padding: 2px;"><u>Date Issued</u></td> </tr> <tr> <td style="padding: 2px;">July 2011</td> </tr> </table>	<u>Transmittal No.</u>	11APX-07	<u>Date Issued</u>	July 2011
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July 2011					

Subject:

COUNTY CIVIL PENALTIES MANUAL - APPENDIX I

Reason For Change:

The County Civil Penalties Manual gives counties instructions on assessing civil penalties against Foster Family Homes and Family Child Care Homes. The County Civil Penalties Manual has been amended to reflect the addition of immediate civil penalties of \$150, the addition of Form LIC 421C and to direct staff to the Reference Material section of the Evaluator Manual when appropriate.

New Pages

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

Insert: Pages 1 – 7 including the County Civil Penalty Checklist and the County Civil Penalty Coordinator Checklist/Transmittal

Approved:

Original signed by
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07/29/11

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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 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 **three** categories for which a **Civil Penalty** shall be assessed.

1. Unlicensed facility operation (Evaluator Manual Section 1-0050)
2. Background check violations (Evaluator Manual Section 1-0055)
3. Violations warranting an immediate civil penalty in the amount of \$150 per day, per violation (Evaluator Manual Section 1-0070)

For family child care homes, there are **five** categories for which a **Civil Penalty** shall be assessed.

1. Unlicensed facility operation (Evaluator Manual Section 1-0050)
2. Background check violations (Evaluator Manual Section 1-0055)
3. Failure to comply with parents rights requirements (Evaluator Manual Sections 1-0057 and 1-0072)
4. Failure to comply with 30 day posting requirements (Evaluator Manual Section 1-0072)
5. Violations warranting an immediate civil penalty in the amount of \$150 per day, per violation (Evaluator Manual Section 1-0070)

Each county may want to designate a Civil Penalty Coordinator who will be responsible for completing all processing steps outlined in this manual. The county's civil penalty citation, assessment, and collection process is part of the review conducted by the California Department of Social Services County Liaisons.

Note: For facilities licensed as both a foster family home and family child care home, please refer to Evaluator Manual Sections 1-0055 and 7-1100 for background check procedures for 18-year olds.

For more information on civil penalties, refer to Evaluator Manual Section 1-0075 Quick Reference- Civil Penalties.

CIVIL PENALTY FORMS

LIC 178 Deficiency/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.

LIC 421 Civil Penalty Assessment - This 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 assessment Plan of Corrections violations and repeat violations for Family Child Care Homes

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, notification and posting requirements and confirmation of removal requirement for family child care homes.

LIC 421C Civil Penalty Assessment (Immediate \$150) – 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 violations of a serious nature.

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 forms: LIC 421, LIC 421A, LIC 421B or LIC 421C.

LIC 422A Civil Penalty Ledger - This form is used to record the payments received from a facility, as well as any amendments 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 a LIC 809.

LIC 9099 Complaint Investigation Report – The violation that is the basis for a civil penalty must be cited on a LIC 9099.

The forms listed above can be accessed via the California Department of Social Services website at: <http://www.dss.cahwnet.gov/cdssweb/PG183.htm>

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 the California Department of Social Services.
- **County Civil Penalty LPA Checklist** - This is a checklist which may be used by the licensing worker when routing to their supervisor for approval.

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

PCA Billing Codes for facility types:

- **84038** for Foster Family Homes
- **74262** for Family Child Care Homes

ISSUING CIVIL PENALTIES:

For any civil penalty assessed:

1. Licensing worker completes a Facility Evaluation Report (LIC 809) or a **Complaint Investigation Report (LIC 9099)**, 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. If immediate civil penalties are being assessed, cite the facility for immediate civil penalties on the LIC 809 or the LIC 9099.
2. Licensing worker also completes a facility Civil Penalty Assessment form (LIC 421, 421A, 421B or 421C) 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, 421B or 421C at the facility.
4. Licensing worker gives copies of LIC 809 and LIC 421, 421A, 421B or 421C 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 in the facility Civil Penalty folder (See Evaluator Manual 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 Civil Penalty 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 Civil Penalty folder should contain the following, as applicable:

- Facility Evaluation Report (LIC 809)
Complaint Investigation Report (LIC 9099)
- Civil Penalty Assessment (LIC 421)
Civil Penalty Assessment (Unlicensed Facility) (LIC 421A)
Civil Penalty Assessment (Immediate) (LIC 421B)
Civil Penalty Assessment (Immediate - \$150) (LIC 421C)
- Double check that the address on the LIC 421, 421A, 421B or 421C and the LIC 809 or LIC 9099 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 Evaluator Manual Section 1-0092)

- Notice of Civil Penalties Due (LIC 422) - Complete this form using the information from the LIC 421, LIC 421A, LIC 421B, LIC 421C and the LIC 809 or LIC 9099. 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 (LIC 422A)
- b. All other forms, contact sheets or correspondence relating to the Civil Penalty.
- c. Send the original LIC 422 and a copy of the LIC 421, LIC 421A, LIC 421B or 421C to the facility operator using **certified mail**. Be sure to print the Civil Penalty invoice number on the front of the green certified mail slip.

(This lets you know in which Civil Penalty 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 Civil Penalty. 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 California Department of Social Services in **one** county check per quarter (once every three months).

The check is to be sent to: California Department of Social Services
P.O. Box 944243, M.S. 9-3-67
Sacramento, CA 94244-2430

Accompanying documentation must specify the following:

- Purpose-Civil Penalty Assessments
- Type of facility
- County of origin and PCA Code Number (84038 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 **Civil Penalty** file and place with other closed **Civil Penalty** 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 **Civil Penalty** 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 **Civil Penalty** folder.
4. Refer to your county procedures for further collection action.

COUNTY CIVIL PENALTY CHECKLIST

County: _____ Date: _____

Licensing **Worker**: _____

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)
- Civil Penalty Assessment - Immediate \$150 (LIC 421C)

- Citing and/or Assessing - LIC 809
- Plan of Correction (Clearing) - LIC 809
- Deficiency**/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 supervisor's signature.

LICENSING **WORKER**: _____ DATE: _____

SUPERVISOR: _____ DATE: _____

COUNTY CIVIL PENALTY COORDINATOR CHECKLIST/TRANSMITTAL

County _____ Date _____

Licensing Worker _____

- 1. Civil Penalty (CP) Coordinator assigns an invoice number.
- 2. **Civil Penalty** Coordinator creates a civil penalty folder for each facility.
- 3. **Civil Penalty** Coordinator reviews all applicable forms for completion and required signatures. The **Civil Penalty** Coordinator completes and processes the Notice of Civil Penalties Due (LIC 422)
- 4. **Civil Penalty** Coordinator completes the Civil Penalty Ledger (LIC 422A) to document civil penalty assessment, **admendments or payments.**
- 5. **Civil Penalty** Coordinator sends original Notice of Civil Penalties Due (LIC 422) and a copy of the Penalty Assessment (LIC 421, 421A, 421B or 421C) 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 California Department of Social Services in one county check quarterly to:**

California Department of Social Services
P.O. Box 944243, M.S. 9-3-67
Sacramento, CA 94244-2430

Include on the check and cover letter:

- Name of the County
- Purpose = Civil Penalty
- PCA Code – **84038** 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 **the California Department of Social Services:** _____

Civil Penalty Coordinator: _____