

1 What is presumptive transfer?

Most foster children are eligible for specialty mental health services, such as therapy to address emotional, behavioral, and developmental problems. When a child is removed from his or her parent s or guardian s home, the county where the child lived (the home county or county of original jurisdiction) is responsible for arranging, paying for, and providing these services. When a child or nonminor is placed outside his or her home county, the responsibility for providing these services must transfer to the county where the child lives, unless certain exceptions apply. This process is called presumptive transfer. The purpose of presumptive transfer is to ensure that foster children who are placed outside of their home county receive access to these services without delay, based on their individual strengths and needs.

2 What are the exceptions to the presumptive transfer of responsibility of specialty mental health services?

There are four exceptions to presumptive transfer:

- The transfer would disrupt the continuity of care or delay access to services for the child or nonminor. In other words, the services would be interrupted or delayed in some way by the presumptive transfer.
- The transfer would interfere with family reunification efforts documented in the individual case plan.
- The placement in a county other than the home county is expected to last less than six months.
- The child s or nonminor s residence is within 30 minutes of travel time to his or her established specialty mental health care provider in the home county.

3 How does the presumptive transfer process begin?

When a decision is made to place the child or nonminor outside the home county, the social worker or probation officer must inform certain individuals of the presumptive transfer requirements and a

description of exceptions, the option to request a waiver of presumptive transfer if an exception exists, and the way to make such a request to the placing agency. These individuals include:

- the child or nonminor,
- the attorney for the child or nonminor,
- and the person or agency responsible for making mental health care decisions on behalf of the child or nonminor (the parent or guardian, unless the court has made an order appointing someone else).

4 Requesting a waiver of presumptive transfer

You may believe it would be better if the child s or nonminor s home county remained responsible for his or her mental health services. Maybe you think so because the child or nonminor would lose an important relationship with a service provider, or reunification efforts would be affected. The child or nonminor, his or her attorney, and the person or agency responsible for making mental health care decisions on behalf of the child or nonminor can request that the placing agency consider waiving presumptive transfer based on an exception listed in (2), keeping the responsibility for mental health services in the home county.

The placing agency must inform the person or agency who requested the waiver and any party to the case of its decision on the request for waiver of presumptive transfer. The person who requested the waiver and any party to the case can ask the court to review the placing agency's decision.

If you are entitled to request a waiver of presumptive transfer, the social worker or probation officer should inform you how and when a request for waiver must be made.

5 How is a decision on a request for waiver made?

The social worker or probation officer will decide whether there is an exception to presumptive transfer. This decision must be communicated in writing or orally to the individual who requested waiver of presumptive transfer, along with all parties to the case.

6 How do I request a hearing?

The person who requested the waiver or any other party to the case may request a court hearing to review the placing agency's decision on the waiver request. To request a hearing, you must file a request for hearing on form JV-214 with the clerk in the superior court where the child's or nonminor's case is being heard. This request must be filed within seven court days of the social workers or probation officers telling you of the decision on the request for waiver.

On form JV-214, you will need to explain to the court why it would be better for the child or nonminor to have the home county maintain responsibility for mental health treatment, or to have that responsibility moved to the new county of residence. The person requesting a hearing also must inform the placing agency that they are requesting a hearing. To do so, give a copy of form JV-214 to the social worker or probation officer within seven days of being informed of the placing agency's decision on the request for the waiver of presumptive transfer.

7 What happens before and during the hearing?

The court will read the request for a hearing and decide whether to grant a hearing based on the information provided on form JV-214. If no hearing is granted, the placing agency's decision will become final. If a hearing is granted, presumptive transfer will be on hold until the court makes a ruling on the request for a waiver. Services to the child or nonminor will continue to be provided by the child's or nonminor's home county until the court either denies the request for a hearing, or makes a ruling at the hearing that presumptive transfer should or should not occur. If no hearing is granted, the placing agency's determination on the request for waiver will be final. If a hearing is granted, the clerk of the court will contact you by phone or letter informing you of the hearing time, date, and location.

At the hearing, the judge will want to know why presumptive transfer should or should not be waived. The court will make its decision based on the best interests of the child or nonminor. Be prepared to

explain to the judge why you believe it is in the child's or nonminor's best interests to keep the responsibility for mental health treatment in the home county or to move it to the new county of residence.