



October 21, 2022

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**RE: Department of Social Services Guardian Background Check System Delays**

Dear Director Johnson, Chief Deputy Director Ramsey, and Deputy Director Gaines:

On behalf of the undersigned organizations, while we appreciate the work that is underway at the

California Department of Social Services (CDSS) to address the delays associated with the Guardian Background Check System for staff working in facilities licensed by CDSS Community Care Licensing (CCL), and for resource families serving in the foster care system—the ongoing delays in receiving clearances and exemptions are untenable for licensees and is impacting direct care and services to the individuals we serve. We also acknowledge and appreciate that in cases, CDSS staff are willing to jump in and assist to resolve urgent issues, but there are systemic issues that continue to impact our workforce. This impacts childcare facilities, Head Start programs, Foster Family Agencies (FFA), resource families recruited into foster care through FFA, short-term residential therapeutic programs, social rehabilitation programs, residential care facilities for the elderly, home care organizations, and other adult and senior care facilities. These delays also impact beneficiaries within the Medi-Cal program as many DSS licensed programs additionally are Medi-Cal certified and provide critical health and behavioral health services.

We respectfully request a meeting with the undersigned organizations and consideration of our requests to provide clarity on the nature of the delays, provide additional technical assistance, and hire and repurpose additional staff to address the backlogs.

CDSS implemented Guardian, the new background check system, in January 2021 and since then, challenges associated with Guardian have grown. Guardian, a system that is designed to protect vulnerable children and adults through a comprehensive criminal and administrative background check process, is leading to serious delays in hiring residential care staff, home care aides, and recruiting resource families. This is impacting direct care in an environment already plagued with severe workforce shortages.

We recently requested information regarding the Department's strategy for addressing the Guardian delays, especially as the delays have increased for our member organizations in recent months. These delays include increased numbers of pending applications for criminal record clearances, lengthened processing times, and lengthened turnaround times for status updates. Additionally, updates are not consistently posted onto the Guardian portal that enables licensees to check on the status in the process. Not only do the delays affect the important work our member organizations do in their communities, but **children and youth are deprived of critical services that enable them to grow and thrive**. In September, **an adoptive agency was forced to remove three children in an adoptive home from the custody of their forever family** after the family moved from Redlands to Ridgecrest and the criminal record exemption was not transferred properly for one of the parents. Despite repeated efforts, the provider was unable to obtain the necessary clearance, transfer, or guidance from CDSS and could not access assistance through the Guardian customer service line (which is only available for 4 hours a day during the week and has an average of a 45-minute wait). This avoidable separation and trauma undermine our core mission of ensuring children and youth have full access to the services and supports to which they are entitled and further traumatizes the children and family.

Between April 13th and August 12th, the California Alliance received nearly 100 inquiries asking for our help from our member organizations concerning Guardian because they were unable to get the clearance processed timely and any guidance from CCL was unclear. **Out of those inquiries, less**

**than one-third have been resolved as of the end of September. The average processing time for a clearance for these inquiries has been between 91 and 101 days.** This goes far beyond the quoted two-week turnaround time stated by Guardian technical assistance and the 30-day turnaround time for simplified criminal exemptions meant to speed the process for individuals with non-violent criminal history that occurred years ago, like a 10-year-old DUI for someone who wants to work as a chef or work in the dining room in adult and senior care. Furthermore, the vast majority of members were not cited a specific reason for the delay when an update was provided. This leaves agencies in the dark as they try to hire staff or recruit resource families.

These delays in the Guardian system are undermining providers' ability to hire staff at the very time when workforce shortages are at their worst. Agencies are competing with many other employers for a scarce workforce and potential employees are often unwilling or unable to wait weeks or months for the results of the Guardian system background check. This results in a spiraling downward cycle because it costs providers time and money in recruitment while leaving facilities under-staffed, which in turn can lead to the possibility of licensing violations.

In another case, a provider in Los Angeles County has been waiting for six months since the initial Live Scan, five months since the submission of the request to Guardian, and two months since the California Alliance last elevated it to CDSS for a criminal record exemption for hiring a peer partner with lived experience to serve in one of their programs. They have received no confirmation that the request for paperwork for the exemption was received by the arresting agency and no way to confirm that assistance is being provided. Instead, the individual is unemployed, and families are not receiving services from this highly qualified individual with lived experience who is committed to serving their community.

To be clear, our coalition is supportive and believe comprehensive background checks are critical to keeping vulnerable Californians safe; however, the switch to the Guardian system has created other unintended consequences that have been detrimental in other ways to children, youth, their caregivers, adults, and older adults and threatens the safety net supporting these populations.

Upon reflection of this data, our coalition of undersigned organizations are providing recommendations for CDSS as it addresses the delays associated with Guardian. We recommend CDSS:

- **System changes and investments to reduce application processing time** need to be prioritized and funded immediately. If additional funding and exemption from the state-level procurement process are needed, we urge DSS to pursue those avenues immediately.
- **Provide a timeline for the hiring and deployment of additional staff** to alleviate the backlog of applications. On June 7th, CDSS informed the California Alliance and the County Welfare Directors Association of its intention to hire additional staff. In the months following the June 7th meeting, there has been a significant increase in requests for status updates and turnaround times for responses from CDSS and it is unclear whether the new staff have been hired or started.

- **Repurpose Existing CDSS Staff to Assist with Delays** to alleviate the backlog and reduce processing times down to a three-day turnaround for clearances and two weeks for simplified criminal exemptions. We recommend hiring temporary staff to help with answering calls and performing work to assist with delays, with training.
- **Direct Guardian technical assistance staff** to provide information on the nature of delays for a specified application in correspondence with providers. The lack of clarity and continually saying that applications are “in process” has been a source of significant frustration in communication with our respective members.
- **Schedule recurring meetings with the coalition** to provide updates on the Department’s efforts, collaboratively identify solutions, and troubleshoot any urgent concerns from our member organizations. Meetings will include relevant staff from the Care Provider Management Bureau, Guardian technical assistance, and coalition organizations.
- **Ensure that interdepartmental communication and coordination** between the Guardian unit and the CCL regional office occurs. We have understood that CCL licensing analysts can often release information or “approve” an applicant on their end, and we have been told of situations in which an applicant was sitting in the system without an approval for weeks at a time. The bureaus should be working together to deploy efforts to move candidates through the process.
- **Provide ongoing training to providers** via webinars or convenings with provider associations on best practices for Guardian. On August 12th, CDSS cited inconsistent use of Guardian by providers and applicants as a major factor for delays. The best practice would be for providers and applicants to fully utilize Guardian from the beginning of the application process until the clearance is approved. Many of our organizations have shared this information with our respective memberships and shared the best practice webinar held on Wednesday September 28<sup>th</sup>. However, in the future, it would be beneficial for CDSS to disseminate this information more broadly with providers via ongoing webinars and partner with provider associations to make sure information is disseminated to all of the appropriate parties.

We thank you for your consideration of this important issue and recommendations and respectfully request a meeting with you all to collaborate and meet the goal of serving vulnerable Californians. The delays associated with Guardian undermine providers' ability to provide for the necessary care and services to vulnerable populations, including foster children, children in childcare settings, adults with disabilities, and older adults.

Sincerely,



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