

A C C ADOPTION COMPETENCY CURRICULUM



NATIONAL RESOURCE CENTER
for Adoption

At Spaulding
for Children

- A Service of the Children's Bureau -
- Member, Training & Technical Assistance Network -

Negotiating Title IV-E
Adoption Assistance Agreements
Participant's Handouts

Negotiating Title IV-E Adoption Assistance Agreement

Objectives:

- *To provide State staff information regarding negotiating and discussing Title IV-E Adoption Assistance and medical assistance, with prospective adoptive parents.*
- *To identify and discuss the legal, policy and procedural requirements for the Title IV-E Adoption Assistance Program.*
- *To equip staff with the skills necessary to negotiate and discuss Adoption Assistance Agreements.*

Competencies: Participants will be able to:

- *Understand eligibility requirements for the Title IV-E Adoption Assistance Program.*
- *Apply Title IV-E Adoption Assistance Policy and Regulations to specific case scenarios.*
- *Identify barriers to implementing negotiation in their agency.*
- *Discuss adoption assistance with older children/youth.*
- *Negotiate Title IV-E Adoption Assistance Agreements with prospective adoptive families.*

Content Outline

- Welcome and Overview
- Adoption Assistance in the United States: Yesterday and Today
- Federal Law, Policies and Eligibility Requirements for the Title IV-E Adoption Assistance Program
- Negotiating and discussing Title IV-E Adoption Assistance Agreements
- Discussing adoption assistance with older children/youth
- Adoption assistance video and discussion
- Case scenarios: Applying your knowledge and skills
- Wrap-up and Post test





State Policies, Procedures and Forms for Title IV-E Adoption Assistance and Medical Assistance





Children's Bureau's Child Welfare Policy Manual Section 8.2





Adoption Assistance: Title IV-E Eligibility Requirements

Applicable Child Criteria

Beginning FY 2010, a title IV-E agency must enter into an Adoption Assistance Agreement with the prospective adoptive parents of any child/youth who meets the criteria for an “applicable child.”

Applicable child/youth is defined as:

- meeting the applicable age requirements which begins at 16 years old in FY 2010 and decreases by two years for each fiscal year until a child/youth of any age meets the applicable age requirements in FY 2018; or
- who has been in foster care for at least 60 months
- sibling to either such child/youth

Along with the determination of eligibility for an “applicable child” a title IV-E agency must determine that the child/youth meets the following two-pronged eligibility test:

- the special needs criteria
- one of the four eligibility criteria listed below

While the above addendum addresses the “applicable child” the two-pronged test must be followed for all other children/youth seeking eligibility for the title IV-E Adoption Assistance Program.

For a child/youth to be eligible for title IV-E Adoption Assistance payments, she/he must meet a two-pronged eligibility test which is listed below:

1. A Three-Part **Special Needs Determination**
2. One of Four **Paths to Eligibility**

Special Needs Determination

The following three requirements must be determined by the **State prior to the finalization of the adoption**:

1. The child/youth cannot or should not be returned to the home of his or her parents.

This requirement can be based on evidence by an order from a court of competent jurisdiction terminating parental rights, the existence of a petition for a termination of parental rights (TPR), or a signed relinquishment by the parents. In addition, if a child/youth can be adopted in accordance with State or Tribal law without a TPR or relinquishment, the requirement of section 473(c) (1) of the Act will be satisfied, as long as

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the State or Tribe has documented the valid reason why the child/youth cannot or should not be returned to the home of his or her parents.

2. There exists a **specific factor or condition** which makes it reasonable to conclude that the **child/youth cannot be adopted without providing Title IV-E Adoption Assistance or Title XIX Medical Assistance**.

Examples in federal law include a child/youth's ethnic background, age, or membership in a minority or sibling group; the presence of a medical condition; or physical, mental, or emotional disabilities. A State may determine the factors or that the child/youth meets all of the medical or disability requirements for Supplemental Security Income (SSI). If a child/youth is determined to be SSI eligible, then she/he meets the special need criteria.

3. A reasonable, but unsuccessful, effort must be made to place the child/youth for adoption with appropriate parents without providing adoption assistance **unless it is against the best interest of the child/youth**.

The State determines when/if it is not in the child/youth's best interest to make the effort to place a child/youth for adoption without assistance. For example, when a child/youth has developed significant emotional ties with the prospective adoptive parents while in their care as a foster child/youth, it would be in the child/youth's best interest to remain with them and additional efforts to place the child/youth are not required.

Another exception to those efforts could be adoption by a relative, in keeping with the statutory emphasis on the placement of children/youth with relatives.

Paths to Title IV-E Adoption Assistance Eligibility

Once a child/youth has met the special needs determination, the child/youth must also meet **one** of the following:

1. The child/youth would have been eligible for Aid to Families with Dependent Children (AFDC) eligible in home of removal.
2. The child/youth is eligible for Supplemental Security Income (SSI).
3. The child is a child of a minor parent in Title IV-E foster care.
4. The child/youth continues to have eligibility for Title IV-E Adoption Assistance in a subsequent adoption.

Path 1: The child/youth would have been AFDC eligible in home of removal and meets definition of child/youth with special needs.

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1. The State must determine that the child/youth would have been eligible for AFDC (according to the State's Title IV-A plan in effect July 16, 1996) in the specified relative's home from which he/she is removed in the month of the voluntary placement agreement or the month of the removal petition. If there is no petition, then AFDC eligibility is determined in the month of removal. To meet the AFDC criteria, the child/youth must have been both a needy child/youth and a child/youth deprived of parental support.
2. For adoptions on or after October 1, 2005, States must determine AFDC eligibility at the child/youth's removal from the home only.
3. Removal from the home must have been in accordance with either:
 - A **judicial determination** in the first order removing the child/youth from the specified relative's home, to the effect that continuation in the home would be contrary to the child/youth's welfare. An AFDC eligible child/youth with special needs who is **voluntarily relinquished can be eligible** if relinquished to either a public or private non-profit agency, if there is a petition to the court to remove the child/youth from his/her home within six months of the date child/youth lived with the specified relative from whom she/he is being removed, and if there is a subsequent "contrary to the welfare" determination. In such cases, the child/youth is considered "removed via a judicial determination."
 - A **Voluntary Placement Agreement (VPA)** between the child/youth's parent/legal guardian and the State agency, under which **at least one Title IV-E foster care maintenance payment had been made** on behalf of the child/youth. However, a foster care maintenance payment is not required if they child/youth meets the criteria for an "applicable child."
4. Eligibility for Temporary Assistance for Needy Families, Temporary Cash Assistance, or any other State program cannot be used in lieu of AFDC eligibility for the Title IV-E Program.
5. In situations in which a child/youth is being adopted from foster care, the child/youth does not have to have been in foster care for any specific length of time to qualify for adoption assistance.
6. The Title IV-E foster care maintenance payments program requirements are not applicable to the child/youth's eligibility for Title IV-E Adoption Assistance. For example:
 - State agency placement and care responsibility and/or placement in foster care are not eligibility criterion for adoption assistance except for the case of a child/youth whose path to eligibility is through a Voluntary Placement

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Agreement. Under a Voluntary Placement Agreement, there has to be at least one foster care maintenance payment, which requires State agency placement and care responsibility.

- In the case of a child/youth whose path to eligibility is a Voluntary Placement Agreement, a “best interests” judicial determination at 180 days is not required.
- The judicial determination for reasonable efforts to prevent the child/youth’s removal from the home is not required.

Path 2: The child/youth is SSI eligible and meets the definition of child/youth with special needs.

1. The child/youth must meet the requirements for Title XVI Supplemental Security Income (SSI) **prior to the finalization** of the adoption. Only a designated Social Security Administration claims representative can determine a child/youth’s SSI eligibility and provide the appropriate eligibility documentation to the State for the child/youth’s file.
2. **No additional criteria can be applied** if the eligibility of the child/youth with special needs is based on his or her eligibility for SSI.
3. The manner of a child/youth’s removal from his/her home, including whether the child/youth is voluntarily relinquished to an individual or private agency, cannot be a factor for the SSI path to eligibility. The manner of removal from the home is only relevant for Title IV-E Adoption Assistance determination of an AFDC eligible child/youth.
4. A State cannot limit the SSI eligibility determination to any specific point prior to the adoption finalization, such as when the petition to adopt is filed. To do so would deny eligibility to a child/youth who meets the Federal eligibility requirements under the Title IV-E Adoption Assistance program. So long as SSI eligibility is determined prior to finalization of the adoption and there is a signed Adoption Assistance Agreement in place, the child/youth meets the eligibility criteria for Title IV-E Adoption Assistance.

Path 3: A child who has a minor parent in foster care and meets the definition of child with special needs.

1. A child is eligible for Title IV-E Adoption Assistance in this circumstance if the minor parent’s Title IV-E foster care maintenance payment covers the child’s cost of care while the child is in the foster family home or institution with the minor parent.
2. No additional criteria can be applied.

Path 4: A child/youth continues Title IV-E Adoption Assistance eligibility in a subsequent adoption and meets the definition of a child/youth with special needs.

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1. A Title IV-E Adoption Assistance-eligible child/youth retains his/her eligibility in a subsequent adoption (if the adoptive parents die or the adoption dissolves) if the child/youth remains a child/youth with special needs.
2. The only determination that must be made by the State prior to the finalization of the subsequent adoption is whether the child/youth has special needs.
3. No other eligibility factors, such as need or deprivation, are required. A child/youth subsequently adopted is treated as though his or her circumstances are the same as those in the previous adoption.
4. Since only the special needs requirement has to be reestablished in a subsequent adoption, the manner of a child/youth's removal from the adoptive home, if there is a removal, does not impact the child/youth's subsequent eligibility for the program.
5. When an adoptive parent dies, or the adoption dissolves, adoption assistance is available in a new adoptive placement after an Adoption Assistance Agreement is signed by the subsequent adoptive parents and the State agency representative and the State has made a determination that the child/youth has special needs.
6. Title IV-E Adoption Assistance eligibility cannot transfer to a guardian or other caretaker. There must be both a new agreement and a special needs determination in place before the State can provide the payment to the new adoptive parent.

Title IV-E Guardianship Assistance Payments on Title IV-E Adoption Assistance Eligibility

1. A title IV-E relative/kinship guardianship assistance payment is not a barrier for a child/youth's eligibility for title IV-E Adoption Assistance when the child/youth is adopted. (Section 473(a)(1)(D) of the Act).

Adoptive Parent Background Checks

1. Before any adoption payments can be made for an eligible child/youth, the following background checks must be secured for prospective adoptive families:
 - Fingerprint-based check of the National Criminal Information Database.
 - A check of a State-maintained Child Abuse and Neglect Registry in which the prospective adoptive parents and other adults living in the adoptive home have resided in the last five years.

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2. Title IV-E Adoption Assistance may not be claimed if the record check reveals that a prospective adoptive parent has been convicted of certain felonies, as enumerated in the federal statute. These felonies include:
 - child abuse or neglect.
 - spousal abuse.
 - a crime against children (including child pornography).
 - a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.
 - physical assault, battery, or a drug-related offense, if a State finds that a court of competent jurisdiction has determined that the felony was committed within the past 5 years [Social Security Act, Section 471(a) (20) (A)].
3. Opt-out States are exempt from the felony conviction exclusion until October 1, 2008.

School Attendance

1. A child/youth receiving a title IV-E adoption payment must attend a full-time elementary or secondary school, or provide documentation that the child/youth is incapable of attending school due to a documented medical condition.

Child/Youth's Immigrant Status

1. The statute permits Title IV-E Adoption Assistance for eligible U.S. citizen and “qualified alien” children/youth.
2. A “qualified alien” child/youth (whether or not the child/youth has been a qualified alien for five years) is eligible for Title IV-E Adoption Assistance if he or she is:
 - a child with special needs.
 - eligible under one of the four federal eligibility paths.
 - placed with adoptive parents who are U.S. citizens or qualified aliens:
 - If the child/youth is placed with an adoptive parent who is a citizen or qualified alien, a qualified alien child is exempt from the five-year bar and may be eligible for Title IV-E Adoption Assistance if other program requirements are met.

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- If placed with an adoptive parent who is an undocumented alien or an alien who is not a qualified alien, a qualified child who is subject to the 5-year bar must have completed *five years as a permanent resident* as well as meet other program requirements to be eligible for Title IV-E Adoption Assistance.
17. The statute also permits Title IV-E Adoption Assistance for eligible children/youth who are U.S. citizens who are adopted and placed outside of the United States. (Children’s Bureau, 2008)
- The cleanest method for facilitating this adoption would be to have the Adoption Assistance Agreement in place prior to the child/youth’s placement outside the United States. That way, the child is already technically a “recipient” of Title IV-E Adoption Assistance, which cannot be terminated just because the child/youth relocates to another jurisdiction. (Children’s Bureau, 2008)
4. Effective October 2010, children/youth who have special needs but are not citizens or residents of the United States and were adopted in another county or brought to this county for the purposes of adoption are specifically prohibited from receiving an adoption assistance payment (including payments of non-recurring expenses under section 473 of the Act) for title IV-E Adoption Assistance eligibility, except if the child/youth meets the eligibility criteria after the disruption of the international adoption.

Duration of Payments

- A State may extend a Title IV-E Adoption Assistance Agreement past 18 years of age at State option to the age of 21 *only* if the child/youth has a mental or physical disability which warrants continuation of adoption assistance. If a child/youth does not have such a disability, then the payments cease at age 18. A child/youth’s eligibility for adoption assistance *may not* continue to the age of 19 or to the month of high school graduation as is authorized under the Title IV-E Foster Care Program. These two programs have different requirements with respect to the maximum age a child/youth is eligible to receive benefits.
- States may elect to extend title IV-E Adoption Assistance up to 21 for a youth when:
 - A title IV-E Adoption Assistance Agreement becomes effective after the child/youth turned age 16 who has not attained 19, 20, or 21 years old.
 - Meets prescribed conditions for continued payments including the following:
 - The conditions for continued title IV-E payments apply to youth over age 18.
 - The youth is required to be completing secondary school (or equivalent).
 - The youth is enrolled in post-secondary or vocational school.

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- The youth is participating in a program or activity that promotes or removes barriers to employment.
- The youth is employed 80 hours a month.
- Is incapable of any of these due to a documented medical condition.

Medicaid Eligibility

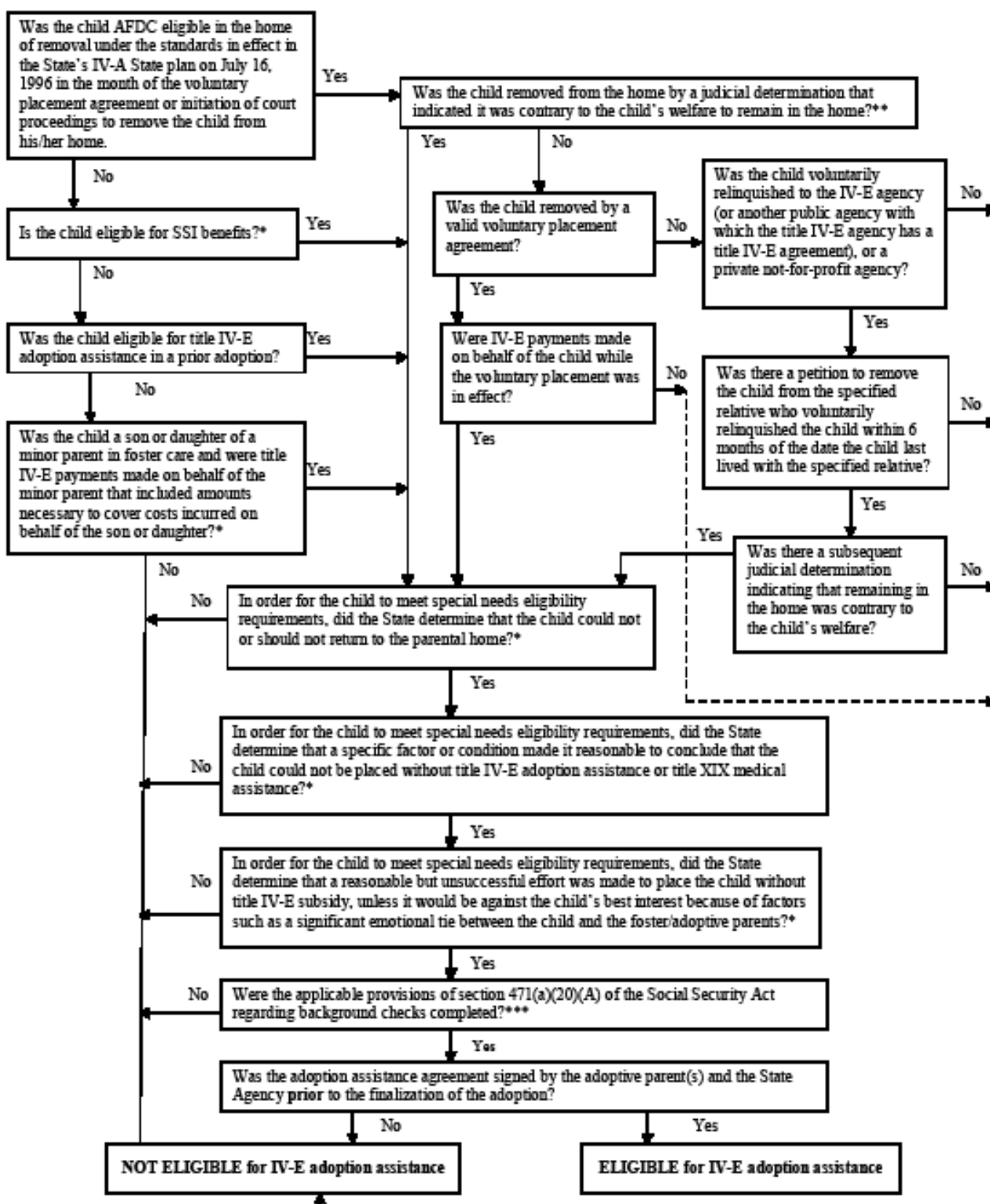
- Children/youth receiving Title IV-E Adoption Assistance are categorically eligible for Title XIX (Medicaid) services. As such, the State must provide Medicaid to all children/youth under a Title IV-E Adoption Assistance Agreement. The State cannot require an adoptive parent to provide health insurance for the child/youth in lieu of the child/youth receiving Medicaid. However, the parent may provide health insurance if he/she wishes as is authorized under the Title IV-E foster care program. These two programs have different requirements with respect to the maximum age a child/youth is eligible to receive benefits.”

(Sources: Title IV-E Adoption Assistance: Everything you always wanted to know but were afraid to ask, Part 1 and 2, May 1 and May 3, 2007. A Presentation by The Children’s Bureau, Administration for Children and Families, U.S. Department of Health and Human Services, Washington, DC; Child Welfare Policy Manual 8.2B –eligibility, 8.2B.3 – child of minor parents, 8.2B.7 –judicial determinations, 8.2B.8 –Medicaid, 8.2B.9 –redeterminations, 8.2b.11 – special needs, 8.2B.12 – SSI eligibility, 8.2B.13 – voluntary relinquishments, 8.2D.2 – payment duration, 8.2D.5 – payment termination)



Title IV-E Adoption Assistance Eligibility Flow Chart

11/07 - ACF/CB



* These requirements need to be met prior to finalization of the adoption.

**For children removed on/after 1/23/01, the judicial determination must be made in the first court order sanctioning the child's removal from the home. For children removed from their homes before 1/23/01, the contrary to the welfare determination must be made at the time of, or prior to, the initiation of the adoption proceedings. (See ACYF-CB-PA-01-01, dated January 23, 2001.)

*** Child must also be eligible for Federal Public Benefits according to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended.





Case Scenario: Peter's Eligibility for Title IV-E Adoption Assistance

Case Scenario

Peter entered care when he was 3 years old. The court terminated his mother's and "unknown father's" parental rights when he was 4 and a half years old on the basis of abandonment. His grandmother, Mrs. Green, reported that her daughter had brought Peter to her home three months before his third birthday and had just "vanished."

Mrs. Green reported that she needed to take Peter for a health screening just before his birthday because she was concerned that he did not respond to his name and did not react to loud noises. However, when she called to schedule an appointment, she was told she needed to have legal guardianship, a statement from Peter's mother that she, Mrs. Green, could consent to medical examination and treatment, or a court order placing the child with her and authorizing her to obtain medical care.

Child's Protective Services (CPS) was contacted and a report made because she could not obtain legal guardianship without his mother's consent and she did not know how to locate her. CPS obtained a preliminary court order placing Peter with Mrs. Green.

Mrs. Green receives Temporary Assistance to Needy Families (TANF) payments and Medicaid for Peter only. She is retired and receives social security benefits and a pension from her previous employer. Her total income is \$5,000 per month. She owns her own home and has a savings and retirement accounts totaling approximately \$200,000.

Mrs. Green had Peter examined. It was determined that he has a significant hearing impairment which is expected to be permanent. He has been enrolled in early childhood program to address developmental lags resulting from the hearing impairment.

CPS proceeded to conduct a "search" for the mother and concurrently completed an adoption home study for Mrs. Green and petitioned for termination of parental rights of his mother and "unknown father." Twelve months after Peter's initial placement his mother still had not appeared. CPS asked the court to terminate parental rights and recommended that Peter be adopted by his maternal grandmother, Mrs. Green. The court terminated parental rights. The case plan is for Mrs. Green to adopt Peter.

- **Is Peter eligible for Title IV-E Adoption Assistance?**
- **What additional information, if any, do you need to make your determination?**





KEY ISSUES TO CONSIDER WHEN NEGOTIATING TITLE IV-E ADOPTION ASSISTANCE

Key Issues	Questions To Ask	Importance
<ul style="list-style-type: none"> ■ Know your agency. ■ Know your agency's policy. ■ Provide ongoing staff training. 	<ul style="list-style-type: none"> ■ Does your agency negotiate or does your agency offer families the same payment they received as a foster care provider thus by-passing the "negotiation" process? ■ Whose role is it to discuss adoption assistance with the family? ■ When does your agency share information about adoption assistance with prospective families? ■ Does your agency share information about adoption assistance with all providers including kinship care providers? ■ How is that information shared: verbally or in writing? 	<ul style="list-style-type: none"> ■ Staff can only educate families if they have good information. ■ Staff is able to embrace clear direction and able to work with confidence within the boundaries of their agency's policies and procedures.
<ul style="list-style-type: none"> ■ Know the federal policy (Social Security Act, Section 473, and the Federal Child Welfare Policy Manual). 	<ul style="list-style-type: none"> ■ Do I understand the nuances of the federal policy enough to appropriately apply it in the case before me? ■ Do I understand why the child is or isn't determined Title IV-E eligible? ■ Why is it beneficial for a child to be determined Title IV-E eligible? ■ Do I understand policy regarding state funded adoption assistance? 	<ul style="list-style-type: none"> ■ In most states at least 50% of the children placed for adoption are eligible for the Title IV-E Adoption Assistance. Section 473 clarifies several aspects of the Title IV-E Adoption Assistance Program. ■ Families often use these resources to point out areas of concerns that they have about the negotiation process.
<ul style="list-style-type: none"> ■ Know the child. ■ Regularly document and update the child/youth's assessment. ■ Know the child's needs. 	<ul style="list-style-type: none"> ■ What does the current care provider say about the child and their needs (behavior)? ■ What level of foster care is the child currently receiving? ■ Why is the child receiving that level of foster care? ■ Has the level of placement been reassessed in the last 6 months? If not, should it be; for example, 6 months prior to termination)? ■ What identified special needs does the child have? ■ Does the agency's record contain accurate and up-to-date supportive documentation about the child's special need, such as a report from the child's therapist, educational or medical records, special reports like genetic testing? 	<ul style="list-style-type: none"> ■ Knowing the child's special needs will assist you in providing clarity about the adoption assistance and how it can assist in meeting the child's needs in their adoptive placement. Giving the adoptive family an opportunity to give input about the child's needs demonstrates that everyone's information is valued and needed to have a fair process.
<ul style="list-style-type: none"> ■ Know the prospective adoptive family. ■ Know the family's needs. 	<ul style="list-style-type: none"> ■ What does the family's home assessment say about their ability to meet the child's needs? ■ What resources does the family voluntarily offer to assist in the care of the child? ■ Does the level of services provided by the family impact the negotiation process? 	<ul style="list-style-type: none"> ■ This information can be useful in assuring the family's circumstances are considered in developing a fair offer. ■ No means testing.





Dos and Don'ts in Preparing for a Fair Hearing

DO

1. **Do prepare for the Fair Hearing.**

Why: You only get one chance to put on your best case.

2. **Do know what your policy and state statute say.**

Why: You will be asked during the hearing to back up your statements and you want to do that with factual information.

3. **Do know the flexibility in your policy.**

Why: Even the best written policy has some flexibility. You will also want to know if your agency has ever "bent" the rules for a family because it may come up in a hearing.

4. **Do consult your agency attorney. If possible, be represented by your agency attorney at the Fair Hearing.**

Why: Your agency attorney should be able to help you put your best case on. They could help you to see loop holes in your case. Many families come to the Fair Hearing with legal counsel or an advocate. Your attorney is there to assist you and your agency.

5. **Do your research.**

Why: If you go into the Fair Hearing not having done your research, you won't be able to enter new evidence once the initial hearing has been heard. Think of what the family may be introducing in their case and be prepared to offer testimony that fortifies your position.

6. **Do have witnesses, if appropriate.**

Why: Witnesses help clarify the points your agency is making.

7. **Do try to settle the case prior to going to court.**

Why: Your fair and appropriate settlement offers become additional information to share with the court that you tried to "negotiate" with the family around meeting the needs of the child/youth, while taking into consideration the families unique circumstances within your agencies policies/regulations and statute.

8. **Do bring to court documentation of your negotiation efforts with the family.**

Why: This will strengthen your case before the court that your agency was following its process.

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9. **Do be aware of any inconsistencies in practice across the state or by region or by county and be prepared to respond to any questions that may arise because of inconsistent practice.**

Why: If it can come up, it will come up and being prepared will help your creditability and strengthen your position.

DON'T

1. **Don't underestimate the adoptive family.**

Why: One of many of our families' strengths is their ability to be their children/youth's number one advocate. There are many chat rooms, books, and other advocates willing and able to prepare and support the family for the Fair Hearing.

2. **Don't think that the Fair Hearing Officer will be lenient on you or side with you because you work for the state or agency that contracts with the state.**

Why: One of many of our families' strengths is their ability to be their children/youth's number one advocate. There are many chat rooms, books, and other advocates willing and able to prepare and support the family for the Fair Hearing.

3. **Don't make up answers. If you don't know, say so.**

Why: The only good answer is the truth. If you don't know what the policy/statute says or what practice is, let someone else answer the question. Depending on the question, this is an opportunity for your attorney to request permission to hold the hearing open for written information to be sent to the court for consideration.

4. **Don't be afraid to attend the Fair Hearing.**

Why: Because you have your agency policy and agency statute behind you and it should support whatever decision you made.



Steps in the Title IV-E Adoption Assistance/Subsidy Process

1. Know your Title IV-E Adoption Assistance policies and procedures.
2. Determine that the child/youth meets the eligibility requirements. Subsidy is dependent upon the child/youth's needs and circumstances. Upon knowing these requirements, you can review the information you have about the child/youth to determine his/her eligibility for adoption assistance/subsidy and establish the maximum amount that can be allowed.
3. Prepare and submit for approval the required forms and supporting documentation after you have determined the basis for the child/youth's eligibility.
4. Discuss adoption assistance/subsidy requirements and process with the older child/youth. Some children/youth may be concerned that the adoptive parent only wants them for the "check." Address this openly and honestly by first talking with them about what makes them feel that way. If this discussion opens up concerns about the parents' motivation to adopt, or the child/youth's acceptance of them as adoptive parents, resolve those concerns before proceeding with the adoption. If it does not clearly explain why adoption assistance is being discussed, discuss with the child/youth that it is for them and making sure that the adoptive parents can continue to meet their needs while integrating them as a full family member.
5. Discuss the adoption assistance/subsidy requirements and process with the pre-adoptive parents. Make sure to ask them if they would adopt the child/youth without adoption assistance. Be clear on the total amount of adoption assistance/subsidy that could be allowed and whether or not you and the parents can "negotiate" rates different from the foster care rate. Remember that the negotiated assistance amount cannot exceed the amount the child/youth would have received if in a foster family home. Be clear on how the amount of the adoption assistance could be changed in the future and the parents' recourse if they disagree with an adoption assistance decision made by the agency. Be clear on how they will discuss receipt of adoption assistance with the child/youth and offer suggestions as necessary.
6. After the discussions and negotiations have been concluded, prepare the Adoption Assistance Agreement and secure the required signatures.





Motivation

This motivation information allows the opportunity to guide the family in a self-assessment process regarding their decision to adopt a particular child/youth. Regardless of the placement type (relative, foster, or new adoptive placement with no previous relationship with the child/youth) it is important to assist the family in a comprehensive self-assessment. While this should have been addressed during the home study process as well as at the point of selection of the family and/or the placement of the child/youth, it is good practice to revisit the family's motivation and interest during the negotiation and discussion of adoption assistance.

Motivation

- Invite the parent(s) to revisit the *initial motivation to adopt* a child/youth .
- Ask why the decision has been made to adopt *this particular* child/youth.

Decision to Adopt

- If this is a couple, identify if both are equally invested in adopting a child/youth with special needs and especially this child/youth. Is there concern that one parent might be more invested than the other? Whose decision was it to adopt this child/youth? Is this a joint decision?
- If there are already children/youth in the home, ask how they were involved in the decision to adopt and this child/youth in particular.

Foster Parent Adoption

- Assist the parent(s) in understanding the differences between being a temporary care provider and a permanent care provider.
- Explain how the role of the agency with the child/youth changes after adoption; for example, the child/youth is no longer a dependent/ward of the court and the dependency is dismissed.
- Explain how Title IV-E Adoption Subsidy benefits may differ from those available through foster care.
- How has the change from temporary placement to a permanent home with a family been explained to the child/youth? What is the child/youth's understanding?
- Identify what, if any, additional supports may be available specific to this being a foster parent adoption.

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Relative Adoption

- Discuss with the parent(s) how their role with the child will change after the adoption is finalized.
- Explore with the family how the adoption is understood and supported by the extended family.
- Identify what, if any, additional supports might be available specific to this being a relative adoption.

Claiming Behaviors

- Claiming is the process that enables parents to raise their adoptive child in the same manner as children born to them.
- Look for claiming actions by the parent(s). In what ways does the parent(s) show that the child/youth has been fully embraced and accepted into the nuclear and extended family?

Adoption Triad

- Revisit the adoption triad with the family, exploring grief and loss as related to the triad.
- The adoption triad includes birth parent(s), the adoptive parent(s), and the adopted child.
- Explore with the parent(s) how their understanding of the triad impacts the dynamics of the adoptive placement, what is the parent-child/youth relationship, and what is the child/youth's adjustment to the family.

Other Children in the Home

- If there are other children/youth in the home, ask what understanding each child/youth has of adoption and if there have been any concerns expressed.

Preparation

Adoptive Family

- What is their understanding of the child/youth's needs?
- What resources do they have available to address these needs?

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- How have other children/youth in the home been prepared for the adoption?
- Explore with the family the possibility that the child/youth may experience a regression period during which old behaviors may resurface. Explore how the parents propose to handle this period and how their adoption subsidy worker may provide support.

Adoptive Child/Youth

- How has the child/youth been prepared for adoption?
- What is the child/youth's understanding of adoption?
- How has the child/youth been given permission to discuss thoughts and feeling regarding the adoption?
- What are the child's feeling/thoughts about being adopted?
- Does the child/youth want to be adopted?
- What concerns, if any, has the child/youth expressed regarding being adopted?





Steps to Negotiating Title IV-E Adoption Assistance Agreement and Discussion of Medical Assistance

1. Gather and review policies, procedures, and forms for adoption assistance and medical assistance for children to be adopted.
2. If the child or youth is eligible for Title IV-E Adoption Assistance, they are categorically eligible for Medicaid. Review the child/youth's case file, summarize needs, and determine the foster home rate that the child is receiving or could receive if not currently placed in a foster home. *(Remember that this is the maximum amount that can be approved for Title IV-E Adoption Assistance.)*
3. Meet with prospective adoptive parents to discuss adoption assistance and medical assistance policies and procedures. Make sure they know the maximum amount that could be approved. Provide a written summary of information along with a blank copy of the Adoption Assistance Agreement and Medical Assistance form. Allow the prospective adoptive parents time to discuss adoption subsidy and medical assistance needs privately. Schedule an appointment at a later date to negotiate the Agreement.
4. Meet to negotiate the Adoption Assistance Agreement and discuss the medical assistance available (negotiating the Adoption Assistance Agreement may take several meetings with the adoptive parents).
 - a. Answer any questions the prospective adoptive parents have after reviewing the written materials and reflecting on the previous discussion.
 - b. Ask them to state the amount of adoption assistance they are requesting and the reasons they think this amount is needed. Discuss how their request and your assessment of the child/youth's needs are consistent or inconsistent. Resolve the differences through discussion. Finalize the amount of the adoption assistance. *(Remember that you cannot approve an amount that exceeds the child/youth's foster care rate and you cannot consider the prospective adoptive parents' income or assets in determining the amount.)*
 - c. If the prospective adoptive parents do not request any adoption assistance, enter "\$0/medical assistance" on the Agreement to preserve option to change assistance payment amount at a later date.
 - d. Discuss with them the medical coverage available to the child/youth under the family's health insurance policies, if any. *(Remember, if the child/youth is eligible for Title IV-E adoption assistance, they are categorically eligible for Medicaid).* Review how the medical assistance that is available would coordinate with the family's health insurance policies.
 - e. Enter the negotiated adoption assistance amount and what the medical assistance plans covers on the appropriate forms.

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- f. Review again all the terms and conditions included in the Adoption Assistance Agreement and Medical Assistance plan and answer any questions.
 - g. Obtain the prospective adoptive parents' signatures, with date, on the Agreement.
 - h. Sign and date the Agreement.
- 5. Secure the required supervisory/management signatures.
- 6. Send a copy of the approved Agreement to the prospective adoptive parents.
- 7. Process for payment.



INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE

ARTICLE I. FINDINGS

The states which are parties to this Compact find that:

- (a) In order to obtain adoptive families for children with special needs, states must assure prospective adoptive parents of substantial assistance (usually on a continuing basis) in meeting the high costs of supporting and providing for the special needs and the services required by such children.
- (b) The states have a fundamental interest in promoting adoption for children with special needs because the care, emotional stability, and general support and encouragement required by such children can be best, and often only, obtained in family homes with a normal parent-child relationship.
- (c) The states obtain fiscal advantages from providing adoption assistance because the alternative is for the states to bear the higher cost of meeting all the needs of children while in foster care.
- (d) The necessary assurances of adoption assistance for children with special needs, in those instances where children and adoptive parents live in states other than the one undertaking to provide the assistance, include the establishment and maintenance of suitable substantive guarantees and workable procedures for interstate cooperation and payments to assist with the necessary costs of child maintenance, the procurement of services, and the provision of medical assistance.

ARTICLE II. PURPOSES

The purposes of this Compact are to:

- (a) Strengthen protections for the interests of children with special needs on behalf of whom adoption assistance is committed to be paid, when such children are in or move to states other than the one committed to provide adoption assistance.
- (b) Provide substantive assurances and operating procedures which will promote the delivery of medical and other services to children on an interstate basis through programs of adoption assistance established by the laws of the states which are parties to this Compact.

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ARTICLE III. DEFINITIONS

As used in this Compact, unless the context clearly requires a different construction:

(a) "Child with special needs" means a minor who has not yet attained the age at which the state normally discontinues children's services, or a child who has not yet reached the age of 21 where the state determines that the child's mental or physical handicaps warrant the continuation of assistance beyond the age of majority, for whom the state has determined the following:

(1) That the child cannot or should not be returned to the home of his or her parents;

(2) That there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as a medical condition or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance;

(3) That, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in their care as a foster child, a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without providing adoption assistance.

(b) "Adoption assistance" means the payment or payments for the maintenance of a child which are made or committed to be made pursuant to the adoption assistance program established by the laws of a party state.

(c) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

(d) "Adoption assistance state" means the state that is signatory to an adoption assistance agreement in a particular case.

(e) "Residence state" means the state in which the child is a resident by virtue of the residence of the adoptive parents.

(f) "Parents" means either the singular or plural of the word "parent".

ARTICLE IV. ADOPTION ASSISTANCE

(a) Each state shall determine the amounts of adoption assistance and other aid which it will give to children with special needs and their adoptive parents in accordance with its own laws and programs. The adoption assistance and other aid may be made subject to periodic reevaluation of eligibility by the adoption assistance state in accordance with its laws.

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(b) The adoption assistance, medical assistance, and other services and benefits to which this Compact applies are those provided to children with special needs and their adoptive parents from the effective date of the Adoption Assistance Agreement.

(c) Every case of adoption assistance shall include a written Adoption Assistance Agreement between the adoptive parents and the appropriate agency of the state undertaking to provide the adoption assistance. Every such agreement shall contain provisions for the fixing of actual or potential interstate aspects of the assistance so provided as follows:

(1) An express commitment that the assistance so provided shall be payable without regard for the state of residence of the adoptive parents, both at the outset of the agreement period and at all times during its continuance;

(2) A provision setting forth with particularity the types of care and services toward which the adoption assistance state will make payments;

(3) A commitment to make medical assistance available to the child in accordance with Article V of this Compact;

(4) An express declaration that the agreement is for the benefit of the child, the adoptive parents and the state and that it is enforceable by any or all of them; and

(5) The date or dates upon which each payment or other benefit provided thereunder is to commence, but in no event prior to the effective date of the Adoption Assistance Agreement.

(d) Any services or benefits provided for a child by the residence state and the adoption assistance state may be facilitated by the party states on each other's behalf. To this end, the personnel of the child welfare agencies of the party states will assist each other, as well as the beneficiaries of Adoption Assistance Agreements, in assuring prompt and full access to all benefits expressly included in such agreements. It is further recognized and agreed that, in general, all children to whom Adoption Assistance Agreements apply will be eligible for benefits under the child welfare, education, rehabilitation, mental health, and other programs of their state of residence on the same basis as other resident children.

(e) Adoption assistance payments on behalf of a child in another state shall be made on the same basis and in the same amounts as they would be made if the child were living in the state making the payments, except that the laws of the adoption assistance state may provide for the payment of higher amounts.

ARTICLE V. MEDICAL ASSISTANCE

(a) Children for whom a party state is committed, in accordance with the terms of an Adoption Assistance Agreement to provide federally aided medical assistance under Title XIX of the Social Security Act, are eligible for such medical assistance during the entire period for which the agreement is in effect. Upon application therefor, the adoptive parents of a child

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who is the subject of such an Adoption Assistance Agreement shall receive a medical assistance identification document made out in the child's name. The identification shall be issued by the medical assistance program of the residence state and shall entitle the child to the same benefits pursuant to the same procedures, as any other child who is covered by the medical assistance program in the state, whether or not the adoptive parents are themselves eligible for medical assistance.

(b) The identification document shall bear no indication that an adoption assistance agreement with another state is the basis for its issuance. However, if the identification is issued pursuant to such an Adoption Assistance Agreement, the records of the issuing state and the adoption assistance state shall show the fact, and shall contain a copy of the Adoption Assistance Agreement and any amendment or replacement thereof, as well as all other pertinent information. The adoption assistance and medical assistance programs of the adoption assistance state shall be notified of the issuance of such identification.

(c) A state which has issued a medical assistance identification document pursuant to this Compact, which identification is valid and currently in force, shall accept, process and pay medical assistance claims thereon as it would with any other medical assistance claims by eligible residents.

(d) The federally aided medical assistance provided by a party state pursuant to this Compact shall be in accordance with paragraphs (a) through (c) of this Article. In addition, when a child who is covered by an Adoption Assistance Agreement is living in another party state, payment or reimbursement for any medical services and benefits specified under the terms of the Adoption Assistance Agreement, which are not available to the child under the Title XIX medical assistance program of the residence state, shall be made by the adoption assistance state as required by its law. Any payments so provided shall be of the same kind and at the same rates as provided for children who are living in the adoption assistance state. However, where the payment rate authorized for a covered service under the medical assistance program of the adoption assistance state exceeds the rate authorized by the residence state for that service, the adoption assistance state shall not be required to pay the additional amounts for the services or benefits covered by the residence state.

(e) A child referred to in paragraph (a) of this Article, whose residence is changed from one party state to another party state shall be eligible for federally aided medical assistance under the medical assistance program of the new state of residence.

ARTICLE VI. COMPACT ADMINISTRATION

(a) In accordance with its own laws and procedures, each state which is a party to this Compact shall designate a Compact Administrator and such Deputy Compact Administrators as it deems necessary. The Compact Administrator shall coordinate all activities under this Compact within his or her state. The Compact Administrator shall also be the principal contact for officials and agencies within and without the state for the facilitation of interstate relations involving this Compact and the protection of benefits and services provided pursuant thereto. In this capacity, the Compact Administrator will be responsible for assisting child welfare

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agency personnel from other party states and adoptive families receiving adoption and medical assistance on an interstate basis.

(b) Acting jointly, the Compact Administrators shall develop uniform forms and administrative procedures for the interstate monitoring and delivery of adoption and medical assistance benefits and services pursuant to this Compact. The forms and procedures so developed may deal with such matters as:

- (1) Documentation of continuing adoption assistance eligibility;
- (2) Interstate payments and reimbursements; and
- (3) Any and all other matters arising pursuant to this Compact.

(c) (1) Some or all of the parties to this Compact may enter into supplementary agreements for the provision of or payment for additional medical benefits and services, as provided in Article V(d); for interstate service delivery, pursuant to Article IV(d); or for matters related thereto. Such agreements shall not be inconsistent with this Compact, nor shall they relieve the party states of any obligation to provide adoption and medical assistance in accordance with applicable state and federal law and the terms of this Compact.

(2) Administrative procedures or forms implementing the supplementary agreements referred to in paragraph (c) (1) of this Article may be developed by joint action of the Compact Administrators of those states which are party to such supplementary agreements.

(d) It shall be the responsibility of the Compact administrator to ascertain whether and to what extent additional legislation may be necessary in his or her own state to carry out the provisions of this Article IV or any supplementary agreements pursuant to this Compact.

ARTICLE VII. JOINDER AND WITHDRAWAL

(a) This Compact shall be open to joinder by any state. It shall enter into force as to a state when its duly constituted and empowered authority has executed it.

(b) In order that the provisions of this Compact may be accessible to and known by the general public, and so that they may be implemented as law in each of the party states, the authority which has executed the Compact in each party state shall cause the full text of the Compact and notice of its execution to be published in his or her state. The executing authority in any party state shall also provide copies of the Compact upon request.

(c) Withdrawal from this Compact shall be by written notice, sent by the authority which executed it, to the appropriate officials of all other party states, but no such notice shall take effect until one year after it is given in accordance with the requirements of this paragraph.

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(d) All Adoption Assistance Agreements outstanding and to which a party state is a signatory at the time when its withdrawal from this Compact takes effect shall continue to have the effects given to them pursuant to this Compact until they expire or are terminated in accordance with their provisions until such expiration or termination, are beneficiaries of the agreements involved shall continue to have all rights and obligations conferred or imposed by this Compact, and the withdrawing state shall continue to administer the Compact to the extent necessary to accord and implement fully the rights and protections preserved hereby.

ARTICLE VIII. CONSTRUCTION AND SEVERABILITY

The provisions of this Compact shall be liberally construed to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the Constitution of the United States or of any party state, or where the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the Constitution of any state party thereto, the Compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

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Case Scenarios

Scenario #1

Shelly and her live in boyfriend, David, relinquished their newborn daughter Maria to a private adoption placing agency. The baby was three days old at placement and appeared to be in good health. She weighed 5lbs, 7 oz. at birth and had an Apgar score of 9. Although Shelly reportedly used marijuana and drank alcohol during the pregnancy, Maria did not test positive for any substances at birth. She was discharged at 24-hours-old with no medical concerns noted.

Shelly and David have two other young children and feel that they could not adequately care for a third child. David works full time as a security guard and Shelly is a part time waitress. Shelly is half Hispanic. She is not a registered tribal member. David is Caucasian. Through their background information, they have also shared that David's father is an alcoholic and that both of their mothers are taking medication for depression.

Harold and Esther Ross, the adoptive parents, have a very secure life. They have been married 15 years and have a combined annual income of \$325,000. They have a 7-year-old daughter who they adopted at two months of age from Brazil. It was their wish to have children with similar racial/ethnic heritage as their 7-year-old daughter so they are pleased to be adopting Maria. However, the Ross's are concerned that she may be at risk for future developmental delays and/or learning disabilities. They have submitted their application for adoption subsidy benefits to the Department. They do not believe that their personal resources should be used if other benefits are available. Their adoption is scheduled to finalize in six months.

- **What additional information, if any, should be asked of the applicants or child/youth placing agency?**
- **Is the child/youth eligible for Title IV-E Adoption Subsidy. Why or why not?**

Scenario #2

Josh was adopted from foster care at age 8 by Elizabeth Riley. He is now age 12. At the annual review, it is discovered that he is not living with his adoptive mother. Josh has been living with Ms. Riley's sister in another state for the past nine months.

Ms. Riley reports that she gave power of attorney to her sister six months ago but that she has continued to provide for Josh's needs. Ms. Riley says that her sister would like to keep Josh long-term and wants to establish guardianship. Ms. Riley states that she is thinking of letting Josh remain with her sister. She says that she has maintained weekly telephone contact with Josh and that he has come home twice since being away. However, the visits have not gone well. She explains that she and Josh do not get along. She says that when they are together they have explosive arguments that result in Josh threatening to run away. He has left on two occasions. This frightens Ms. Riley as she does not want him living on the streets. Josh says that he is happy with his aunt and that he does not want to return home. Ms. Riley thinks that allowing Josh to remain with her sister might be best for her and for Josh. She is hopeful that their relationship will improve over time. Ms. Riley says that she might agree to her sister obtaining temporary guardianship.

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- **What questions should the adoption subsidy office ask Ms. Riley?**
- **Should the Title IV-E Adoption Assistance payments be interrupted? Explain your answer.**
- **What changes are warranted in the status of the subsidy case? Should the case be suspended? Should the case be terminated?**

Scenario #3

Mr. and Mrs. Wayfield adopted their two nephews and niece two years ago. They are receiving Title IV-E Adoption Assistance for all three children. In addition, they receive SSI benefits for their niece. The Adoption Subsidy Program has just been notified due to the fact that the children have been placed in foster care. At the time of removal, it was reported that the children had not lived with Mr. and Mrs. Wayfield for more than two years.

Mr. and Mrs. Wayfield misrepresented information at the time of their adoption subsidy annual review. They reported that the children were in their home, when in reality they were living with the biological mother, Ms. Lillian Williams. The Wayfields had returned all of the children with Ms. Williams a few months after the adoption finalized. Ms. Williams says that she tried to care for the children but received no assistance from Mr. and Mrs. Wayfield. Mr. and Mrs. Wayfield say that they provided for the children's needs but did not give money directly to Ms. Williams because of her inability to manage money properly. The Child Protective Services (CPS) social worker interviewed Mr. and Mrs. Wayfield, who indicated that they do not want the children returned to their care and are willing to sign voluntary relinquishments.

Mr. and Mrs. Billings are members of the same church that the Wayfields attend and they are aware of the situation. The Billings have an approved adoptive home study and want to adopt a sibling group. They have contacted CPS expressing their interest in adopting these children.

- **How should the adoption subsidy program address the misrepresentation of information presented on the annual review by Mr. and Mrs. Wayfield?**
- **What changes are warranted in the status of the subsidy case with Mr. and Mrs. Wayfield? Should the case be suspended? Should the case be terminated?**
- **If Mr. and Mrs. Billings adopt the children/youth, are they eligible for adoption subsidy? Why or why not?**
- **If adoption subsidy were approved for Mr. and Mrs. Billings, how would you facilitate the negotiations?**
- **If adoption subsidy is granted to Mr. and Mrs. Billings, how should the maintenance amounts be determined? What amounts would be granted to each child/youth and why?**

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Scenario #4

John and Wanda Downing adopted Jakki at age 13. Jakki is in the 11th grade and will have her 18th birthday next month. She has said that on her 18th birthday she will move in with a friend. She plans to complete high school but no longer wants to live with her adopted parents. Mr. and Mrs. Downing do not object to Jakki moving out and agree to support her as long as she is attending school. Their primary concern is that she graduates from high school.

Mr. and Mrs. Downing have contacted the adoption subsidy office to request that the Title IV-E Adoption Assistance monies continue after her 18th birthday. They are also requesting an increase in the adoption assistance payments, stating that it will be more costly for them to support Jakki out of the home.

- **How should the adoption subsidy program address Mr. and Mrs. Downing's request to continue the adoption assistance monies? Explain your answer.**
- **If adoption assistance monies are continued, how should the request for an increase be negotiated?**

Scenario #5

Matthew's biological mother abandoned him as an infant, leaving the hospital shortly after his birth. The hospital social worker reported the matter to Child Protective Services. Matthew was placed in the foster home of Mr. and Mrs. Ronald Tyler. Mr. and Mrs. Tyler subsequently adopted Matthew when he was 18 months old.

While Mr. and Mrs. Tyler were told about adoption subsidy at the time of the adoption, they chose not to pursue the application for benefits. Matthew did not present any problems and they felt that the benefits were not needed. He was developmentally on target and appeared to be a healthy child, with the exception of recurring ear infections.

Mr. and Mrs. Tyler did not encounter any problems until Matthew reached age 9. At age 8, Matthew was diagnosed with Attention Deficit Hyperactive Disorder (ADHD). He is now approaching his 16th birthday and has been diagnosed with bi-polar disorder. He has experienced three hospitalizations for behavioral issues in the past four years. He is currently in counseling and on medication.

Mr. and Mrs. Tyler have exhausted their personal insurance and other financial resources. They have spoken with the Iowa Foster Care and Adoptive Parents Association and been advised to seek assistance from the Title IV-E Adoption Assistance Program. Mr. and Mrs. Tyler have submitted an application for adoption subsidy.

Mr. and Mrs. Tyler are committed to Matthew. However, they are concerned that they do not have sufficient resources to meet his needs. They believe that the Department should assist, stating that because they did not initially apply for benefits, they saved the Department a great amount of

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money. Mr. and Mrs. Tyler are requesting adoption subsidy benefits retroactive to his diagnosis of ADHD at the age of 8. They say that this will help to replenish their savings and also help to provide for Matthew during his adult years.

- **What steps should have occurred at the time of the adoptive placement, when Mr. and Mrs. Tyler chose not to apply for benefits? Explain your answer.**
- **Is Matthew eligible for Title IV-E Adoption Assistance? Why or why not?**
- **If Matthew is eligible, how should the negotiation of the adoption subsidy benefits be handled and what benefits should be approved?**
- **How should the request for retroactive payments be addressed? Explain your answer.**

Scenario #6

Nine-year-old Julia was adopted a year ago by Nancy Hawthorn. Although she was receiving counseling while in foster care, she has not been in counseling since being adopted. Julia adjusted well to her adoptive placement. She is doing well in school and gets along well with her peers. While in foster care, Julia exhibited acting out behaviors. She had frequent tantrums that would last for hours. Ms. Hawthorn reports that Julia rarely has tantrums.

Ms. Hawthorn has recently requested an increase in her monthly Title IV-E Adoption Assistance payments. The amount she is requesting is usually reserved for children with more severe needs than Julia exhibits. Based upon Julia's current status, the rate exceeds the amount she would receive if she were in foster care. Ms. Hawthorn is aware of another 9-year-old child who was recently adopted from foster care and is receiving the higher maintenance rate. She believes that because the children are the same age, their maintenance rates should be the same.

The adoption subsidy program has denied Ms. Hawthorn's request. Ms. Hawthorn believes that this is an inequitable practice and has requested an appeal.

- **On what basis did the adoption subsidy program deny the request?**
- **How should the adoption subsidy program prepare for the appeals hearing?**
- **How do you think the appeals judge should rule?**

Scenario #7

Milton was adopted by Willard Jackson three years ago. Milton has recently undergone surgery and requires treatment. Mr. Jackson selected not to use a surgeon covered under the Title XIX medical services. He believed that Milton should receive the best possible care. He located a surgeon outside of the Title XIX health plan. He has just discovered that his private health care plan will only cover 40 percent of the debt because he failed to obtain prior authorization for treatment. Mr. Jackson is requested that the Adoption Subsidy Program pay the remaining 60 percent.

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Adoption subsidy denied the request. Mr. Hawthorn has written to his congressman and is filing an appeal. He states it was that his understanding was that the Adoption Subsidy Program existed to support adoptive parents with the care of their children. Mr. Hawthorn's opinion is that had Milton remained in foster care, he would have required this surgery and the Department would have been responsible for the full cost. He says that his request for the Department to pay 60 percent is a savings. Finally, he feels the Department is obligated to pay the debt.

- **On what basis did the Adoption Subsidy Program deny the request?**
- **How should adoption subsidy prepare for the appeals hearing?**
- **How do you think the appeals judge should rule?**

Scenario #8

Jose and Juan are 3-years-old twins and their sister Marissa is 5. The children have lived in foster care for two years. Their mother is Mexican and their father is Caucasian. The mother is deceased. The father's whereabouts are unknown. They have maternal relatives who live about 50 miles away. These relatives expressed interest in having the children placed with them but not adopting them.

The children are in the process of being adopted by their foster parents, Mr. and Mrs. Stapley. The Stapleys own a small local car dealership. Their biological children are all adults and out of the home. Mrs. Stapley helps out occasionally at the office when the secretary or receptionist is out ill but does not usually work outside of the home. Jose, Juan, and Marissa attend day care on a full time basis. Mrs. Stapley believes that day care is needed to continue to promote the children's socialization skills.

The Stapleys currently receive the highest foster care rates for each child. The twins were born prematurely and each have an eye condition. At age 3, Juan's sight seems to have progressed normally. Jose, on the other hand, has just received glasses to help correct his vision. Marissa, when placed, was developmentally delayed and receiving speech and language therapy. Currently, she is not receiving speech and language services. She is developmentally on target and is ready for kindergarten .

Mr. and Mrs. Stapley are requesting that the adoption subsidy maintenance remain the same as the foster care rates and that day care continue for each child.

Mr. and Mrs. Stapley say that the monies will be used to maintain the children's Hispanic heritage and culture. Because they are Caucasian and live in a predominantly Caucasian neighborhood, they plan to take the children to South America or Mexico each year to ensure that they know their culture. They also plan to enroll the entire family in Spanish language classes so that Spanish can be spoken in the home and when they travel abroad. Mr. and Mrs. Stapley say that in deciding to adopt the children, they have vowed to honor their cultural heritage.

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- Describe the negotiation process with Mr. and Mrs. Stapley.
- What benefits should be approved for each child/youth and why?

Scenario #9

Lisa Warren is requesting to adopt Michelle, age 2, and her brother Michael, age 4. Ms. Warren has been a foster parent to the children for six months. She has received the basic rate for each child and day care services.

Ms. Warren is requesting that the maintenance monies and day care benefits continue. She explains that as a single parent, she cannot adopt without adoption assistance, as she cannot afford day care expenses. The children do not present any special needs.

- Describe the negotiation process with Ms. Warren.
- The agency has four families approved for adoption who have stated that they would adopt without adoption assistance. Who would be appropriate for these children?
- Should the agency consider placing the children with another family? Explain your answer.
- What benefits were approved for each child and why?



Title IV-E Adoption Assistance: References and Other Resources





Child Welfare Policy Manual – Title IV-E Adoption Assistance Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services

Retrieved from [http:// www.acf.hhs.gov/](http://www.acf.hhs.gov/) January 9, 2009

(Note to user: go to the web site before use for current revisions)

8.2 TITLE IV-E, Adoption Assistance Program

1. **Question:** Can a State suspend or reduce a Title IV-E adoption assistance subsidy if the adoptive parents fail to renew or recertify the Adoption Assistance Agreement?

Answer: No. It is incumbent upon adoptive parents to keep the State informed of material changes that might impact the parent's support, but a State cannot reduce or suspend adoption assistance if the adoptive parents fail to reply to the State's request for information, renewal or recertification of the agreement. Once an eligible child is receiving Title IV-E adoption assistance pursuant to an agreement, adoption assistance continues until either the adoptive parents concur to a change or one of the statutory conditions are met for termination of the assistance (section 473(a)(4) of the Social Security Act and Child Welfare Policy Manual Section 8.2B.9 Q/A #2). Therefore, suspensions or reductions in a Title IV-E adoption assistance payment are not permitted without the concurrence of the adoptive parents under section 473(a)(3) of the Act.

- **Source/Date:** 12/31/07
- **Legal and Related References:** Social Security Act – section 473(a)(3) and (4); Child Welfare Policy Manual section 8.2B.9 Q/A #2

8.2A TITLE IV-E, Adoption Assistance Program, Agreements

1. **Question:** Is it permissible for a State to include a statement in the Title IV-E Adoption Assistance Agreement to the effect that "The Department's obligation to provide for Federally funded adoption assistance payments and/or services is subject to the appropriation of State funds"?

Answer: No. Although we understand that the State may experience difficulties in its ability to pay subsidies due to the State budget, such difficulties do not relieve or alter the State's obligation under Title IV-E to act in accordance with executed Adoption Assistance Agreements. Accordingly, any statement that undermines the State's obligation to honor the terms of the Title IV-E Adoption Assistance Agreement is not consistent with Federal requirements in sections 473(a)(1)(B)(ii) and 473(a)(3) of the Social Security Act. Once an agreement is signed, the State must obtain the concurrence of the adoptive parent if it wishes to make any changes in the payment amount with one exception. That exception is when there is an across-the-board reduction or increase in the foster care maintenance payment rate. In that circumstance, the State may adjust the adoption assistance payment without the adoptive parent's concurrence.

- **Source/Date:** 08/05/08
- **Legal and Related References:** Social Security Act - sections 473(a)(1)(B)(ii) and 473(a)(3); CWPM 8.2D4, Q/A #2)

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8.2A.1 TITLE IV-E, Adoption Assistance Program, Agreements, Interstate Placements

1. Question: Which State is responsible for entering into an Adoption Assistance Agreement in interstate adoptions?

Answer: If the State agency has responsibility for placement and care of a child, that State is responsible for entering into the Adoption Assistance Agreement and paying the Title IV-E adoption subsidy, even if the child is placed in an adoptive home in another State. If the State agency does not have responsibility for placement and care, it is the adoptive parents' State of residence where the adoption assistance application should be made. In that event, the public child welfare agency in the adoptive parents' State of residence is responsible for determining whether the child meets the definition of special needs, entering into the Adoption Assistance Agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473

2. Question: What happens if a family moves to a different State while the Adoption Assistance Agreement is still in effect?

Answer: Section 475 (3)(B) of the Social Security Act requires that any Adoption Assistance Agreement, effective on or after October 1, 1983, stipulate that the agreement...shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

States which enter into Adoption Assistance Agreements must take measures to assure that the terms of the agreements are met. Either directly, or through agreements with other States, services and medical care (children eligible for Title IV-E adoption assistance payments are deemed eligible for title XIX (Medicaid) regardless of their residence within the nation) agreed upon between the State and parents must be provided (45 CFR 1356.40[e]).

The responsibility of the State to honor its commitments for title XIX and other services as specified in the adoption agreement, is based on the State's agreement to administer Title IV-E. The authority for the State to enter into agreements and contracts with other States to honor commitments made in Adoption Assistance Agreements is based on the State's statute or administrative procedures.

- **Source/Date:** ACYF-CB-PI-83-08 (8/10/83)
- **Legal and Related References:** Social Security Act - section 475(3); 45 CFR 1356.40

3. Question: When the State agency enters into an Adoption Assistance Agreement with a family from another State, which State's rate structure applies as the limit for the adoption assistance payment?

Answer: In situations where a child is placed by the State agency in one State with an adoptive family in another State, it is the placing State that would look at its own established foster care rate structure, as well as State law and policy governing its foster care and adoption assistance payments, to determine the amount of assistance available on behalf of the child. If the placing and paying State's law or policy allows flexibility to pay amounts based upon the foster care board rate in the State in which the child is placed for adoption, this practice would be allowable under Title IV-E since the statutory requirement in section 473(a)(3) of the Act would be met.

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- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(3)

4. Question: Please explain the responsibilities of States that have entered into interstate adoptions when the adoptive parents die or the adoption is dissolved.

Answer: If a Title IV-E adoption dissolves or the adoptive parents die and the child is placed with a State agency that assumes responsibility for placement and care, it is the placing State's responsibility to determine whether the child meets the definition of special needs, and pay the subsidy in a subsequent adoption. If, however, a public child welfare agency is not involved in the subsequent adoptive placement of a child, it is the public child welfare agency in the subsequent adoptive parents' State of residence that is responsible for determining whether the child meets the definition of special needs, entering into the Adoption Assistance Agreement, and paying the subsidy. The State of the child's initial adoption or the State that pays the Title IV-E adoption assistance in the child's initial adoption is irrelevant in a subsequent adoption.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473

8.2A.2 TITLE IV-E, Adoption Assistance Program, Agreements, Means Test

1. Question: May a State employ a means test when negotiating Adoption Assistance Agreements?

Answer: The use of a means test is prohibited in the process of selecting a suitable adoptive family, or in negotiating an Adoption Assistance Agreement, including the amount of the adoption assistance payment. Once a child has been determined eligible under section 473 of the Act, adoptive parents cannot be rejected for adoption assistance or have payments reduced without their agreement because of their income or other resources. In addition, the State cannot arbitrarily reject a request for an increase in the amount of subsidy (up to the amount the child would have received in foster care) in cases where the adoptive parents make life choices such as resigning one's job to stay at home with the adopted child or to return to school. Adoptive parents can request a fair hearing if the State rejects such requests.

The circumstances of the adopting parents must be considered together with the needs of the child when negotiating the Adoption Assistance Agreement. Consideration of the circumstances of the adopting parents has been interpreted by the Department to pertain to the adopting family's capacity to incorporate the child into their household in relation to their lifestyle, standard of living and future plans, as well as their overall capacity to meet the immediate and future needs (including educational) of the child. This means considering the overall ability of the family to incorporate an individual child into their household. Families with the same incomes or in similar circumstances will not necessarily agree on identical types or amounts of assistance. The uniqueness of each child/family situation may result in different amounts of payment.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** 45 CFR 1356.40 (c)

8.2B TITLE IV-E, Adoption Assistance Program, Eligibility

1. Question: Please explain who is eligible for Title IV-E adoption assistance.

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Answer: A State is required to enter into an Adoption Assistance Agreement with the adoptive parents of a child with special needs (as defined in section 473(c) of the Social Security Act (the Act)) and provide adoption assistance if the child meets specific requirements. There are four ways that a child can be eligible for Title IV-E adoption assistance:

1. Child is eligible for Aid to Families with Dependent Children (AFDC) and meets the definition of a child with special needs - Adoption assistance eligibility that is based on a child's AFDC eligibility (in accordance with the program rules in effect on July 16, 1996) is predicated on a child meeting the criteria for such at the time of removal. In addition, the State must determine that the child meets the definition of a child with special needs prior to finalization of the adoption.

The method of removal has the following implications for the AFDC-eligible child's eligibility for Title IV-E adoption assistance: If the child is removed from the home pursuant to a judicial determination, such determination must indicate that it was contrary to the child's welfare to remain in the home; or if the child is removed from the home pursuant to a voluntary placement agreement, that child must actually receive Title IV-E foster care payments to be eligible for Title IV-E adoption assistance.

Children placed pursuant to a voluntary placement agreement under which a Title IV-E foster care maintenance payment is not made are not eligible to receive Title IV-E adoption assistance.

2. Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs - A child is eligible for adoption assistance if the child meets the requirements for title XVI SSI benefits and is determined by the State to be a child with special needs prior to the finalization of the adoption.

There are no additional criteria that a child must meet to be eligible for Title IV-E adoption assistance when eligibility is based on a special needs child meeting SSI requirements. Specifically, how a child is removed from his or her home or whether the State has responsibility for the child's placement and care is irrelevant in this situation.

Unlike AFDC eligibility that is determined by the State child welfare agency, only a designated Social Security Administration claims representative can determine SSI eligibility and provide the appropriate eligibility documentation to the State.

3. Child is eligible as a child of a minor parent and meets the definition of a child with special needs - A child is eligible for Title IV-E adoption assistance in this circumstance if: prior to the finalization of the adoption, the child's parent was in foster care and received a Title IV-E foster care maintenance payment that covered both the minor parent and the child of the minor parent and is determined by the State to meet the definition of a child with special needs.

There are no additional criteria that must be met in order for a child to be eligible for Title IV-E adoption assistance if the child's eligibility is based on his or her minor parent's receipt of a foster care maintenance payment while placed with the minor parent in foster care. As with SSI, there is no requirement that a child must have been removed from home pursuant to a voluntary placement agreement or as a result of a judicial determination.

4. Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs - In the situation where a child is adopted and receives Title IV-E adoption assistance, but the adoption later dissolves or the adoptive parents die, a child may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. The only determination that must be made by the State prior to the finalization of the subsequent adoption is whether the child is a child with special needs, consistent with the requirements in section 473(c) of the Act.

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Need and eligibility factors in section 473(a)(2)(A) of the Act must not be redetermined when such a child is subsequently adopted because the child is to be treated as though his or her circumstances are the same as those prior to his or her previous adoption. Since Title IV-E adoption assistance eligibility need not be re-established in such subsequent adoptions, the manner of a child's removal from the adoptive home, including whether the child is voluntarily relinquished to an individual or private agency, is irrelevant.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01); 7/17/2006
- **Legal and Related References:** Social Security Act - sections 473(a)(2) and 473(c); The Deficit Reduction Act of 2005

2. Question: Does a child need to be continuously eligible for Aid to Families for Dependent Children (AFDC) during the period s/he is in foster care in order to be eligible for adoption assistance after the termination of parental rights?

Answer: No. A child for whom eligibility for Title IV-E adoption assistance payments is being established need not have been continuously eligible for AFDC during his or her tenure in foster care. The statute requires that the child be eligible for AFDC only at the time of the child's removal from the home (section 473(a)(2)(A)(i)(I)(bb) of the Social Security Act). Please see the Child Welfare Policy Manual at 8.2B for an explanation of all the eligibility criteria for the adoption assistance payments program.

- **Source/Date:** 03/14/07
- **Legal and Related References:** Social Security Act - section 473

3. Question: Are children whose legal guardianships disrupt eligible for Title IV-E adoption assistance?

Answer: If a child who had been receiving Title IV-E foster care maintenance payments prior to a legal guardianship returns to foster care or is placed in an adoptive home after disruption of the legal guardianship, the factors below must be considered in determining the child's eligibility for Title IV-E adoption assistance:

1) Title IV-E Demonstration Waiver States - In States that have an approved Title IV-E demonstration waiver from the Department to operate a subsidized legal guardianship program, the Title IV-E terms and conditions allow reinstatement of the child's Title IV-E eligibility status that was in place prior to the establishment of the guardianship in situations where the guardianship disrupts. Therefore, if a guardianship disrupts and the child returns to foster care or is placed for adoption, the State would apply the eligibility criteria in section 473 of the Social Security Act (the Act) for the child as if the legal guardianship had never occurred.

2) Non-Demonstration Waiver States - In States that do not have an approved Title IV-E demonstration waiver from the Department, the eligibility requirements in section 473 of the Act must be applied to the child's current situation. Therefore, in a situation where the child has returned to foster care from the home of a non-related legal guardian, the child would not be eligible for Title IV-E adoption assistance since the child was not removed from the home of a specified relative. If, however, the child has been removed from the home of a related legal guardian, an otherwise eligible child could be eligible for Title IV-E adoption assistance.

In either situation, however, if a child meets the eligibility criteria for Supplemental Security Income and meets the definition of special needs prior to the finalization of the adoption, the child would be eligible for Title IV-E adoption assistance. If a child meets these criteria, no further eligibility criteria must be met.

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- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01); 7/17/2006
- **Legal and Related References:** Social Security Act - sections 473; The Deficit Reduction Act of 2005

4. **Question:** Is the State required to provide Title IV-E adoption assistance to all eligible children on whose behalf it is requested?

Answer: Yes, if the child meets the criteria in section 473 of the Social Security Act (the Act). Section 473(a)(1)(A) of the Act specifies that "each State having a plan approved under this part shall [emphasis added] enter into Adoption Assistance Agreements (as defined in section 475(3) of the Act) with the adoptive parents of children with special needs." Further, sections 473(a)(1)(B)(i) and (ii) of the Act require States to make payments of nonrecurring adoption expenses incurred by or on behalf of parents in connection with the adoption of a child with special needs and/or adoption assistance payments on behalf of a child who meets the requirements of section 473(a)(2) of the Act.

- **Source/Date:** 04/24/07
- **Legal and Related References:** Social Security Act – sections 473(a) and 475(3)

5. **Question:** The statute requires that to be an “applicable child” based on the child’s “duration in care,” the child must have been in foster care for 60 consecutive months (see section 473(e)(2)(A) of the Social Security Act). Please provide additional guidance on calculating the 60 consecutive month period.

Answer: The 60 consecutive month period is any 60 consecutive months in foster care prior to the finalization of the adoption. The title IV-E agency may use any reasonable method of calculating the 60 consecutive month period, within the following parameters:

The definition of “foster care” at 45 CFR 1355.20(a) applies in determining the 60 consecutive month provision and does not include detention facilities or psychiatric hospitals (see Child Welfare Policy Manual (CWPM) section 7.3 Q/A #1). “Foster care” is defined at 45 CFR 1355.20(a) as: a 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and preadoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.?

A child must be in foster care, as defined in 45 CFR 1355.20(a), for at least one day of a month.

A runaway episode may count towards calculating the 60 consecutive month period if the title IV-E agency retains responsibility for the placement and care of the child during the runaway episode because a child in this situation is considered to be in foster care. See CWPM sections 8.3C.2 Q/A #3 and 1.2B.7, National Youth in Transition Database (NYTD) Federal Guidance Q/A #8.10, and ACYF-CB-PI-08-03.

If a title IV-E agency considers a child who is on a trial home visit to be in foster care, then the trial home visit period may count towards calculating the 60 consecutive month period. See existing policy on trial home visits in the CWPM section 8.3C.5.

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- **Source/Date:** 2/24/2011
- **Legal and Related References:** Social Security Act – Section 473(e)(2)(A), 45 CFR 1355.20(a), Child Welfare Policy Manual sections 7.3 Q/A #1, 8.3C.5 , 8.3C.2 Q/A #3 and 1.2B.7, NYTD Federal Guidance Q/A #8.10, ACYF-CB-PI-10-11, and ACYF-CB-PI-08-03

6. Question: The Adoption Assistance eligibility criteria for an “applicable child” includes one pathway to title IV-E adoption assistance eligibility which requires that the child must be in the “care” of a public or licensed private child placement agency by way of a voluntary placement, voluntary relinquishment or a court-ordered removal with a judicial determination that remaining at home would be contrary to the child’s welfare. Does “care” mean that that a public or private agency must have placement and care responsibility for the child? *Show History*

Answer: No. Although the term "care" as it is used in 473(a)(2)(A)(ii)(I)(aa) of the Social Security Act (the Act) may imply that a public or private agency has placement and care responsibility for the child, it is not explicit. Therefore, in situations where any sort of care is being provided for an applicable child by a public or licensed private child placement agency or Indian tribal organization at the time the adoption proceedings are initiated, the requirements in section 473(a)(2)(A)(ii)(I)(aa) of the Act will be met.

- **Source/Date:** 5/04/11
- **Legal and Related References:** Social Security Act – section 473(a)(2)(A)(ii)(I)(aa)

7. Question: The Adoption Assistance eligibility criteria for an “applicable child” includes one pathway to title IV-E adoption assistance eligibility which requires that the child must be in the care of a public or licensed private child placement agency by way of a voluntary placement, voluntary relinquishment or a court-ordered removal with a judicial determination that remaining at home would be contrary to the child’s welfare. When referring to a “licensed” private child placement agency, does this mean that the agency must be licensed by the State or Tribe entering into the adoption assistance agreement? Or is it required that the title IV-E agency provide a payment to an eligible child even if the agency was not licensed in the State or Tribe that is entering into the agreement? *Show History*

Answer: Section 473(a)(2)(A)(ii)(I)(aa) prescribes only that the child be in the care of "...a licensed private child placement agency or Indian tribal organization." So long as the child placement agency is licensed for title IV-E eligibility purposes it does not matter who licenses the agency.

- **Source/Date:** 5/04/11
- **Legal and Related References:** Social Security Act – section 473(a)(2)(A)(ii)(I)(aa)

8. Question: The statute authorizes title IV-E adoption assistance eligibility for siblings of an applicable child under certain circumstances. These circumstances include the following factors: 1) the child is a sibling of the applicable child for the fiscal year; 2) the sibling is to be placed in the same adoption placement as the applicable child sibling for the fiscal year; and 3) the sibling meets the eligibility requirements for the title IV-E adoption assistance program. In such situations, must the adoption for the sibling who is the applicable child be finalized prior to that of the child who may meet the criteria as a sibling of an applicable child for the sibling to be eligible for title IV-E adoption assistance?

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Answer: No. Under 473(e)(3) of the Social Security Act, there is no requirement for the applicable child to be adopted before that child's sibling. A child is considered an applicable child if he or she meets the following conditions:

- (A) is a sibling of a child who is an applicable child for the fiscal year;
- (B) is to be placed in the same adoption placement as an applicable child for the fiscal year who is his/her sibling; and
- (C) meets the adoption assistance eligibility requirements.

As such, a sibling could be eligible for adoption assistance if the sibling is adopted before the applicable child, as long as the sibling and applicable child are placed in the same adoption placement, and the sibling meets all other eligibility requirements.

- **Source/Date:** 05/04/11
- **Legal and Related References:** Social Security Act – section 473(e)(3)

9. Question: Does a child who is a member of a sibling group have to meet the criteria in section 473(e)(3) of the Social Security Act (the Act) prior to finalization or prior to entering into the adoption assistance agreement to be considered an applicable child?

Answer: A child who is a member of a sibling group must meet the criteria in section 473(e)(3) of the Act prior to finalization of the adoption to be considered an applicable child. Under 473(e)(3) of the Act, a sibling is considered to be an applicable child if he meets the following elements:

- (A) is a sibling of a child who is an applicable child;
- (B) is to be placed in the same adoption placement as an applicable child who is his/her sibling; and
- (C) meets the adoption assistance eligibility requirements for an applicable child.

A child must meet these three elements prior to the finalization of the adoption. This is consistent with policy stated in the Child Welfare Policy Manual Section 8.2B12 Q/A #2 in which we stated that a child's eligibility for Supplemental Security Income benefits must be established prior to finalization of the adoption. It is also consistent with policy in ACYF-CB-PI-10-11 in which we stated that an applicable child is a child who has been in foster care under the responsibility of the title IV-E agency for any 60 consecutive months prior to the finalization of the adoption.

- **Source/Date:** 05/04/11
- **Legal and Related References:** Social Security Act – section 473(e)(3); Child Welfare Policy Manual Section 8.2B.12 Q/A#2; ACYF-CB-PI-10-11

10. Question: Must a title IV-E agency that takes the option to extend the title IV-E programs to older youth ages 19, 20, or 21 per section 475(8)(B) of the Social Security Act provide title IV-E adoption assistance payments to the older youth who remain eligible when the adoption assistance agreements expires?

Answer: Yes. A title IV-E agency must provide extended adoption assistance payments to an older youth when his adoption assistance agreement expires, if the youth remains eligible for the adoption assistance program. This includes youth under a title IV-E adoption assistance agreement in place prior to the agency taking the option to extend the title IVE programs.

- **Source/Date:** 05/04/11
- **Legal and Related References:** Social Security Act – sections 475(8)(B) and 473

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8.2B.1 TITLE IV-E, Adoption Assistance Program, Eligibility, Biological Parents

1. Question: Can a biological parent whose parental rights have been terminated and who later adopts his or her biological child receive Title IV-E adoption assistance?

Answer: No. The purpose of the Title IV-E adoption assistance program is to provide assistance to adoptive families who adopt special needs children in need of alternative permanent homes. A child cannot be considered a child with special needs unless, among other things, "the State has determined that the child cannot or should not be returned to the home of his parents" (section 473(c)(1) of the Act). While the termination of parental rights (TPR) would verify that this determination had previously been made, the placement of the child back into the biological home would nullify such a determination. While the State may continue to recognize that the legal ties have been severed, the biological ties remain.

In this situation, the child would be returned to the home of the biological parent. Thus, a determining factor for Title IV-E eligibility in section 473(c)(1) of the Act would not be present. The adoption by the biological parent in these circumstances, would be undertaken as a means of restoring the legal relationship between the parent and child, rather than for purposes of providing the child with new parents or a substitute for the original home.

- **Source/Date:** ACYF-CB-PIQ-89-04 (8/8/89)
- **Legal and Related References:** Social Security Act - sections 472 (a)(2)(A) and (C), 473(a)(2)(A)(ii) and 473(c)(1)

8.2B.2 TITLE IV-E, Adoption Assistance Program, Eligibility, Children in Foster Care

1. Question: Would adoptive parents continue to be eligible to receive Title IV-E adoption assistance payments on behalf of a child who has been placed in a psychiatric facility under the care and responsibility of the State agency through a voluntary placement agreement?

Answer: Yes. Title IV-E, section 473(a)(4)(B) of the Social Security Act states that "no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents". Other than the age of the child, these two conditions are the only basis in the Act for terminating adoption assistance payments on behalf of a child unless requested by or agreed to by the adoptive parents. On the other hand, there is nothing to prevent the State agency or the court from requesting or ordering the parents to contribute toward the cost of the child's care in the psychiatric facility, in the same manner as any other parents would be asked in similar situations.

- **Source/Date:** ACYF-CB-PIQ-85-12 (11/25/85)
- **Legal and Related References:** Social Security Act - section 473(a)(4)

2. Question: May Title IV-E eligible children in adoptive homes receive Title IV-E foster care maintenance payments prior to finalization of adoption?

Answer: Prior to the finalization of adoption, Title IV-E eligible children in adoptive homes may receive foster care maintenance payments if the home is licensed for foster care.

- **Source/Date:** ACYF-CB-PIQ-82-01 (1/19/82)
- **Legal and Related References:** Social Security Act - section 472

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8.2B.3 TITLE IV-E, Adoption Assistance Program, Eligibility, Child of a Minor Parent

1. Question: Is the child of a minor parent eligible for Title IV-E adoption assistance?

Answer: Section 473(a)(2)(A)(i)(III) of the Social Security Act provides that the child whose costs in a foster family home or child-care institution are covered by the Title IV-E foster care payment made with respect to the parent is eligible for adoption assistance under Title IV-E, if determined by the State to be a child with special needs under section 473(c).

- **Source/Date:** Source/Date: ACYF-CB-PA-88-01 (7/6/88); Questions and Answers on the Final Rule (65 FR 4020 (1/25/00))
- **Legal and Related References:** Social Security Act - section 473(a)(2)(A)(i)(III)

2. Question: When must the child of a minor parent meet the Title IV-E adoption assistance eligibility criteria?

Answer: Effective October 1, 2005, the child of a minor parent must meet the Title IV-E adoption assistance eligibility criteria prior to finalization of the adoption.

- **Source/Date:** 8/7/2006
- **Legal and Related References:** Social Security Act - Section 473(a)(2)(A)(bb)(III); Public Law 109-171, The Deficit Reduction Act of 2005

3. Question: When does an applicable child of a minor parent have to live in a foster family home or child care institution with the minor parent to meet the requirements in section 473(a)(2)(A)(ii)(I)(cc) of the Social Security Act (the Act)? *Show History*

Answer: The statute at 473(a)(2)(A)(ii)(I)(cc) requires that the applicable child of the minor parent lived with his or her minor parent in a foster family home or child care institution and does not specify a timeframe. Therefore, the applicable child of a minor parent may reside with his or her minor parent at any point prior to the finalization of the child's adoption.

- **Source/Date:** 05/04/11
- **Legal and Related References:** Social Security Act – section 473(a)(2)(A)(ii)(I)(cc)

8.2B.4 TITLE IV-E, Adoption Assistance Program, Eligibility, Deceased Adoptive Parents/dissolved Adoptions

1. Question: Please explain the requirements regarding a child's eligibility for Title IV-E adoption assistance when the adoptive parents die or the adoption is dissolved.

Answer: In the situation where a child is adopted and receives Title IV-E adoption assistance, but the adoption later dissolves or the adoptive parents die, a child may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. The only determination that must be made by the State prior to the finalization of the subsequent adoption is whether the child is a child with special needs, consistent with the requirements in section 473(c) of the Act. Need and eligibility factors in sections 473(a)(2)(A) of the Act must not be redetermined when such a child is subsequently adopted because the child is to be treated as though his or her circumstances are the same as those prior to his or her previous adoption. Since Title IV-E adoption assistance eligibility need not be re-established in such subsequent adoptions, the manner of a child's removal from the adoptive home, including whether the child is voluntarily relinquished to an individual or private agency, is irrelevant.

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- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(2)(A) and (C) and 473(c)

2. Question: Please explain the responsibilities of States that have entered into interstate adoptions when the adoptive parents die or the adoption is dissolved.

Answer: If a Title IV-E adoption dissolves or the adoptive parents die and the child is placed with a State agency that assumes responsibility for placement and care, it is the placing State's responsibility to determine whether the child meets the definition of special needs, and pay the subsidy in a subsequent adoption. If, however, a public child welfare agency is not involved in the subsequent adoptive placement of a child, it is the public child welfare agency in the subsequent adoptive parents' State of residence that is responsible for determining whether the child meets the definition of special needs, entering into the Adoption Assistance Agreement, and paying the subsidy. The State of the child's initial adoption or the State that pays the Title IV-E adoption assistance in the child's initial adoption is irrelevant in a subsequent adoption.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473

8.2B.5 TITLE IV-E, Adoption Assistance Program, Independent Adoptions

1. Question: Is a child who is the subject of an independent adoption eligible for Title IV-E adoption assistance?

Answer: We consider an independent adoption one in which the child is not under the responsibility of a public or private adoption agency. It is highly improbable that a child who is adopted through an independent adoption will be eligible for Title IV-E adoption assistance since many of these children are voluntarily relinquished at birth directly to an adoptive family. Children who are voluntarily relinquished are eligible only in certain limited circumstances and only when they are relinquished to the State child welfare agency or another public agency (including Tribes) with which the State agency has a Title IV-E agreement. The only exceptions are: (1) a child who meets the eligibility criteria for Supplemental Security Income, and (2) a child in a subsequent adoption, under specific circumstances, if s/he received Title IV-E adoption assistance in a previous adoption. If the State determines that such child is a child with special needs, consistent with section 473(c) of the Act, the State may not apply any further requirements or restrictions to the child's eligibility for Title IV-E adoption assistance.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01); 7/17/2006
- **Legal and Related References:** Social Security Act - sections 473(a)(2) and 473(c); The Deficit Reduction Act of 2005

8.2B.6 TITLE IV-E, Adoption Assistance Program, International Adoptions

1. Question: Is a child who is the subject of an international adoption eligible for Title IV-E adoption assistance?

Answer: The Federal adoption assistance program under Title IV-E was intended to provide permanency for children with special needs in public foster care by assisting States in providing ongoing financial and medical assistance to the families who adopt them. As a result, the statutory requirements for title IV-E adoption assistance eligibility are geared to needy children in public child welfare systems and are

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difficult, if not impossible, to apply to children who are adopted from abroad. Therefore, although the statute does not categorically exclude these children from participation in the Title IV-E adoption assistance program, it is highly improbable that children who are adopted abroad by U.S. citizens, or are brought into the U.S. from another country for the purpose of adoption, will meet the criteria in section 473 of the Social Security Act (the Act) for Title IV-E adoption assistance eligibility.

In addition to meeting the three-part criteria for special needs in section 473(c) of the Act, to be eligible for Title IV-E adoption assistance, a child also must be eligible in one of the following manners: 1) Eligible for Aid to Families with Dependent Children (AFDC) at the time of the voluntary placement agreement or court removal petition; 2) Eligible for Supplemental Security Income; or, 3) foster care costs of the child are being covered by Title IV-E foster care maintenance payments being made for his or her minor parent in foster care. Children who are adopted abroad, or are brought into the U.S. from other countries for the purpose of adoption, are not: 1) AFDC-eligible in their own homes (AFDC was a domestic program and therefore not available on behalf of children in their own homes in another country); 2) SSI-eligible (SSI cannot be established since a child who is adopted from another country cannot meet either the Social Security Administration's alien eligibility requirement or its "presence in the U.S." rule (requiring that an individual who has been outside the U.S. for 30 consecutive days must be present in the U.S. for 30 consecutive days to be eligible for SSI). The Child Citizenship Act of 2000, Public Law 106-395, impacts neither the SSI eligibility for children who are adopted from abroad nor the Title IV-E adoption assistance eligibility for these children); or 3) eligible as a result of their minor parent's receipt of Title IV-E foster care maintenance payments.

The above cited reasons, as well as the criteria that the child must meet in order to determine whether a child meets the definition of special needs make it highly improbable, if not virtually impossible, that a child adopted through an intercountry adoption will be eligible for Title IV-E adoption assistance. Although it is highly improbable that children adopted through an intercountry adoption will meet the Title IV-E adoption assistance requirements, States cannot in policy categorically exclude these children from consideration since the statute does not authorize such an exclusion. In the case of reimbursement of nonrecurring expenses of adoption, the State need only to determine that the child is a child with special needs, consistent with section 473(c) of the Act. Accordingly, if a child who is adopted from abroad meets the three criteria for special needs, the State must pay for the nonrecurring adoption expenses for these children, consistent with 45 CFR 1356.41, if requested by the parents prior to the finalization of the adoption.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01); 7/17/2006
- **Legal and Related References:** Social Security Act - section 473(a) and (c); The Deficit Reduction Act of 2005; 45 CFR 1356.41

8.2B.7 TITLE IV-E, Adoption Assistance Program, Eligibility, Judicial Determinations

1. Question: We believe that the lack of a "reasonable efforts" determination in accordance with section 472 (a)(1) of the Social Security Act (the Act) cannot result in ineligibility for Title IV-E adoption assistance. Is this correct?

Answer: Yes. The judicial determination of "reasonable efforts" to prevent placement and reunify the child with his family is an eligibility requirement for the Title IV-E foster care maintenance payments program (section 472 (a)(1) of the Act), but such a determination is not an eligibility requirement for adoption assistance in section 473 of the Act.

- **Source/Date:** ACYF-CB-PIQ-85-06 (6/5/85)
- **Legal and Related References:** Social Security Act - sections 472 and 473

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2. Question: Do the "contrary to the welfare" requirements at 45 CFR 1356.21(c) and (d) apply to the adoption assistance program?

Answer: Yes. To fulfill the eligibility criteria in section 473(a)(2)(A)(i)(I) of the Social Security Act when a child's removal from the home is the result of court action, there must be a judicial determination to the effect that to remain in the home would be contrary to the child's welfare. Since a child's removal from the home must occur as a result of such a judicial determination, the determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from the home. If the determination is not made in the first court ruling pertaining to removal from the home, the child is not eligible for Title IV-E adoption assistance. The contrary to the welfare finding must be explicit and made on a case-by-case basis. Items such as nunc pro tunc orders, affidavits, and bench notes are not acceptable substitutes for a court order. Only an official transcript is sufficient evidence of the judicial determination. A judicial determination regarding reasonable efforts to prevent removal or reunify the family, although required for Title IV-E foster care, is not a requirement for Title IV-E adoption assistance eligibility.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(2)(A)(i)(I); 45 CFR 1356.21(c) and (d)

8.2B.8 TITLE IV-E, Adoption Assistance Program, Eligibility, Medicaid

1. Question: Is Title XIX coverage required under Title IV-E Adoption Assistance?

Answer: Yes. Section 473(b) of the Social Security Act clearly establishes that a child receiving foster care maintenance payments or adoption assistance payments is treated as a child who is a recipient of Aid to Families with Dependent Children (AFDC).

In addition, section 2171 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) subsequently amended section 1902 (a)(10)(A) to specifically require eligibility for title XIX (Medicaid) services for "all individuals receiving aid or assistance under any plan of the State approved under...part A or part E of title IV". Consequently, to the extent that the State has a title XIX program, children covered by Title IV-E are statutorily eligible.

- **Source/Date:** ACYF-CB-PIQ-82-16 (6/21/82)
- **Legal and Related References:** Social Security Act - sections 471, 473 and 1902; Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35)

8.2B.9 TITLE IV-E, Adoption Assistance Program, Eligibility, Redeterminations

1. Question: What are the requirements for redeterminations of Title IV-E adoption assistance eligibility?

Answer: The Title IV-E adoption assistance program does not require redeterminations of a child's eligibility. Although the title XIX Medicaid program and the programs that, in part, may qualify a child initially for adoption assistance, such as Aid to Families with Dependent Children and Supplemental Security Income, require redeterminations, they are unnecessary for the purpose of maintaining a child's eligibility for Title IV-E adoption assistance. Once a child has been determined eligible and is receiving adoption assistance, a State may terminate the assistance only under the circumstances specified at section 473(a)(4) of the Social Security Act.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473

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2. Question: Some States are requiring adoptive parents to complete annual renewals of their Adoption Assistance Agreements. Does Title IV-E require the State or local agency to perform annual renewals or eligibility determinations for adoption assistance?

Answer: No. There is no Federal statute or provision requiring annual renewals, recertifications or eligibility re-determinations for Title IV-E adoption assistance. Parents who receive adoption assistance payments, however, have a responsibility to keep the State or local agency informed of circumstances which would make them ineligible for Title IV-E adoption assistance payments, or eligible for assistance payments in a different amount (Section 473(a)(4)(B) of the Social Security Act). Once a child is determined eligible to receive Title IV-E adoption assistance, he or she remains eligible and the subsidy continues until: (1) the age of 18 (or 21 if the State determines that the child has a mental or physical disability which warrants the continuation of assistance); (2) the State determines that the parent is no longer legally responsible for the support of the child, or; (3) the State determines the child is no longer receiving any support from the parents.

- **Source/Date:** ACYF-CB-PIQ-98-02 (9/03/98)
- **Legal and Related References:** Social Security Act - section 473(a)(4)(B)

8.2B.10 TITLE IV-E, Adoption Assistance Program, Eligibility, Responsibility for Placement and Care

1. Question: Must the State have responsibility for placement and care of a child for that child to be eligible for Title IV-E adoption assistance?

Answer: The eligibility requirements for adoption assistance in section 473(a)(2) of the Act do not specify that the State Title IV-E agency must have placement and care responsibility for a child to qualify for adoption assistance. There are some situations, however, in which the criteria dictate that a child be under the placement and care responsibility of the State agency or that of another public agency (including Tribes) with whom the State has a Title IV-E agreement in order to be eligible for Title IV-E adoption assistance. These are:

- 1) a child who is placed pursuant to a voluntary placement agreement and who must have had a title IV-E foster care maintenance payment paid on his or her behalf under the agreement, consistent with section 472(a)(2)(B) and 473(a)(2)(A)(i)(I) of the Act; and
- 2) a child who is eligible for Title IV-E adoption assistance based upon his or her minor parent's eligibility for Title IV-E foster care while in the custody of the State agency, consistent with section 473(a)(2)(A)(i)(III) of the Act.

- **Source/Date:** ACYF-CB-IM-01-01 (11-6-01)
- **Legal and Related References:** Social Security Act - section 473(a)(2)

8.2B.11 TITLE IV-E, Adoption Assistance Program, Eligibility, Special Needs

1. Question: Please explain the requirements for special needs determinations.

Answer: An integral part of establishing adoption assistance eligibility requires the State to determine that the child is a child with special needs in accordance with all three criteria defined in section 473(c) of the Social Security Act (the Act):

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1) The State must determine that the child cannot or should not be returned to the home of his or her parents (section 473(c)(1) of the Act); and 2) The State must determine that there exists a specific factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing Title IV-E adoption assistance or title XIX medical assistance. Such a factor or condition may include (but is not limited to) ethnic background, age or membership in a minority or sibling group, the presence of a medical condition, or physical, mental or emotional disabilities. For example, in some States ethnic background alone may inhibit the ability of a child to be adopted, while in other States a combination of factors, such as minority status and age, may be factors. It is important to note that in each case the State must conclude that, because of a specified factor or factors, the particular child cannot be placed with adoptive parents without providing assistance; and

The State must document in each child's case record the specific factor(s) that make the child difficult to place and describe the efforts to place the child for adoption without providing assistance. In an effort to find an appropriate adoptive home for a child, and meet the requirement that a reasonable, but unsuccessful, effort be made to place the child without adoption assistance, it is not necessary for the agency to "shop" for a family while the child remains in foster care. Once the agency has determined that placement with a certain family is in the child's best interest, the agency should make full disclosure about the child's background, as well as known or potential problems. If the agency has determined that the child cannot or should not return home and the child meets the statutory definition of special needs with regard to specific factors or conditions, then the agency can pose the question of whether the prospective adoptive parents are willing to adopt without assistance. If they say they cannot adopt the child without adoption assistance, the requirement in section 473(c)(2)(B) for a reasonable, but unsuccessful, effort to place the child without providing adoption assistance will be met.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - sections 471(a)(19) and 473(c)

2. Question: In establishing Title IV-E eligibility for adoption assistance, is termination of parental rights the only mechanism for demonstrating that a child cannot or should not be returned home?

Answer: One of the criteria for establishing that a child has special needs is a determination by the State that the child cannot or should not be returned to the home of his or her parents. Previous guidance stated that this means that the State must have reached that decision based on evidence by an order from a court of competent jurisdiction terminating parental rights, the existence of a petition for a termination of parental rights (TPR), or a signed relinquishment by the parents. It has been brought to our attention that there are situations in which adoptions are legal without a TPR. Specifically, in some Tribes adoption is legal without a TPR or a relinquishment from the biological parent(s), and there is at least one State that allows relatives who have cared for a related child for a period of time to adopt without first obtaining a TPR.

After consideration, we believe that our earlier policy is an unduly narrow interpretation of the statute. Consequently, if a child can be adopted in accordance with State or Tribal law without a TPR or relinquishment, the requirement of section 473(c)(1) of the Act will be satisfied, so long as the State or Tribe has documented the valid reason why the child cannot or should not be returned to the home of his or her parents.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(c)

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8.2B.12 TITLE IV-E, Adoption Assistance Program, Eligibility, SSI

1. Question: Is there a prohibition under Title IV-E against claiming Federal financial participation (FFP) for adoption assistance for a child who receives Supplemental Security Income (SSI)?

Answer: There is no prohibition under Title IV-E against claiming FFP for adoption assistance for a child who receives benefits from SSI. Section 473 of Title IV-E created an adoption assistance program which permits Federal matching funds for the costs of adoption assistance for the purpose of encouraging the placement of eligible children in adoptive homes. Under Title IV-E adoption assistance (section 473), the scope of eligibility specifically includes children with special needs who are eligible to receive SSI (473(a)(2)(A)(i)(II)) as well as those eligible for AFDC (473(a)(2)(A)(i)(I)) and Title IV-E foster care (473(a)(2)(A)(i)(III)).

Title XVI (SSI) is a needs based program and, as such, requires a test of income and resources of the adoptive parents in determining the amount of the SSI benefit to which a child with a disability(ies) may be entitled. If (or when) the parental resources and income exceed a maximum level determined by the SSI program, the child is no longer eligible for SSI payments.

If the adoptive parents decide to decline adoption assistance and choose to receive only SSI for the child, and if they have not executed an Adoption Assistance Agreement before the adoption is finalized, they may not later receive Title IV-E adoption assistance payments, as the child would no longer meet all of the eligibility requirements as a child with special needs (section 473(c)(2)). It may be prudent for the decision maker (parent, guardian, custodian, caretaker relative) to arrange for an Adoption Assistance Agreement which does not provide for payment, but which does provide for title XVI and title XIX coverage, and which may at some future date, upon review, be renegotiated to provide for payment of adoption assistance funds.

The adoptive parents of a child eligible for Title IV-E adoption assistance and SSI benefits may make application for both programs and the child, if eligible, may benefit from both programs simultaneously.

In cases where the child is eligible for both SSI and Title IV-E and there is concurrent receipt of payments from both programs, "the child's SSI payment will be reduced dollar for dollar without application of any exclusion", thus decreasing the SSI benefit by the amount of the Title IV-E payment (SSI Program Operations Manual). To reiterate, concurrent receipt is subject to the SSI rule that the SSI payment will be reduced by the amount of the foster care payment.

- **Source/Date:** ACYF-CB-PA-94-02 (2/4/94)
- **Legal and Related References:** Social Security Act - section 473; 20 CFR 416.1100ff; Program Operations Manual System, Part 5, Supplemental Security Income Chapter 008 - Income, Subchapter 30 - Unearned Income

2. Question: Section 473(a)(2)(A)(bb)(II) of the Social Security Act (the Act) indicates that a child who meets all of the requirements of title XVI of the Act with respect to eligibility for Supplemental Security Income (SSI) benefits may be eligible for Title IV-E adoption assistance. When must a child be eligible for SSI for the purposes of meeting the Title IV-E adoption assistance eligibility criteria?

Answer: As of October 1, 2005, the child's eligibility for SSI benefits must be established prior to finalization of the adoption.

- **Source/Date:** 8/7/2006
- **Legal and Related References:** Social Security Act - Section 473(a)(2)(A)(bb)(II); Public Law 109-171, The Deficit Reduction Act of 2005

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8.2B.13 TITLE IV-E, Adoption Assistance Program, Eligibility, Voluntary Relinquishments

1. Question: Is a child who is voluntarily relinquished to a private, nonprofit agency eligible for Title IV-E adoption assistance?

Answer: As authorized by section 473(a)(2)(A)(i)(I) of the Act, a child is eligible for title IVE adoption assistance if s/he is removed from the home by way of a voluntary placement agreement with respect to which Title IV-E foster care payments are provided, or as the result of a judicial determination that to remain in the home would be contrary to the child's welfare. However, a child who is voluntarily relinquished to either a public or private, nonprofit agency will be considered judicially removed in the following circumstances:

- (1) the child is voluntarily relinquished either to the State agency (or another public agency (including Tribes) with whom the State has a Title IV-E agreement), or to a private, nonprofit agency; and
- (2) there is a petition to the court to remove the child from home within six months of the time the child lived with a specified relative; and
- (3) there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.

Under these circumstances, the AFDC-eligible child will be treated as though s/he was judicially removed rather than voluntarily relinquished. If the State agency subsequently determines that the child also meets the three criteria in the definition of a child with special needs in section 473(c) of the Act, the child is eligible for Title IV-E adoption assistance. If, however, there is no petition to remove the child from the home or no subsequent judicial determination, the child cannot be considered judicially removed for the purpose of Title IV-E adoption assistance eligibility. Furthermore, if the court merely sanctions the voluntary relinquishment without making a determination that it is contrary to the child's welfare to remain in the home, the child is not eligible for Title IV-E adoption assistance.

- **Source/Date:** ACYF-CB-IM-01-08 (11-6-01)
- **Legal and Related References:** Social Security Act - section 473(a)(2)(A)(i)(I) and ©

8.2C TITLE IV-E, Adoption Assistance Program, Interstate Compact

1. Question: What is the definition or description of the term "interstate compact" as used in the Adoption Assistance and Child Welfare Amendments of 1980 (Public Law 96-272)?

Answer: An interstate compact is an instrument to assure provisions for the protection of the interests of the child receiving agreed-upon financial assistance or other supportive services under a currently effective Adoption Assistance Agreement when the adoptive parents and the child adopted under the agreement move to another State (Social Security Act, section 475 (3)). The Act requires that Adoption Assistance Agreements remain in effect regardless of the State in which the adoptive parents are residents at any given time.

- **Source/Date:** ACYF-CB-PIQ-81-03 (10/20/81)
- **Legal and Related References:** Social Security Act - section 475

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8.2D TITLE IV-E, Adoption Assistance Program, Payments

No questions and answers are available at this time.

8.2D.1 TITLE IV-E, Adoption Assistance Program, Payments, Allowable Costs

1. Question: Are there restrictions for how Title IV-E adoption assistance funds may be spent?

Answer: Once the Adoption Assistance Agreement is signed and the child is adopted, the adoptive parents are free to make decisions about expenditures on behalf of the child without further agency approval or oversight. Hence, once an Adoption Assistance Agreement is in effect, the parents can spend the subsidy in any way they see fit to incorporate the child into their lives. Since there is no itemized list of approved expenditures for adoption assistance, the State cannot require an accounting for the expenditures. The amount of the assistance may be adjusted periodically if the family's or child's circumstances change, but only with the concurrence of the adoptive family.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - sections 473

8.2D.2 TITLE IV-E, Adoption Assistance Program, Payments, Duration

1. Question: May a State limit the duration of payments pursuant to an Adoption Assistance Agreement?

Answer: States may limit the duration of payments under an Adoption Assistance Agreement for individual eligible children to a period which may end prior to the child's eighteenth birthday, if the decision is made on a case-by-case basis, taking into consideration the provisions of section 473(a)(2) of the Social Security Act. States may not have a blanket policy which limits the duration of all adoption assistance payments to a date earlier than the eighteenth birthday of eligible children, although a time limit may be set in individual cases with the concurrence of the adopting parents, depending on the needs of the child and the circumstances of the parents.

- **Source/Date:** ACYF-CB-PIQ-81-02 (12/8/81)
- **Legal and Related References:** Social Security Act - section 473

8.2D.3 TITLE IV-E, Adoption Assistance Program, Payments, Non-recurring Expenses

1. Question: Please summarize the requirements for the nonrecurring expenses of adoption.

Answer: The State must enter into an Adoption Assistance Agreement prior to the finalization of the adoption and reimburse (up to \$2000, or at State option a lower limit) the nonrecurring adoption expenses incurred by any parent who adopts a child with special needs. The only eligibility criterion to be applied for reimbursement of the nonrecurring expenses of adoption is that the State determine that the child meets the definition of special needs, in accordance with section 473(c) of the Act. A child does not have to be eligible for Aid to Families with Dependent Children, Title IV-E foster care, or Supplemental Security Income in order for the adoptive parents to receive reimbursement for their nonrecurring adoption expenses. Nor does the child have to be under the responsibility for placement and care of the State agency in order for the adoptive parents to be reimbursed for the nonrecurring expenses of adoption.

The term "nonrecurring adoption expenses" is defined as the reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State or Federal law, and which have not been reimbursed from other sources or funds.

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Federal financial participation is available at the matching rate of 50 percent for State expenditures up to \$2000 for each adoptive placement.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(6); 45 CFR 1356.40 (i)

2. Question: Is it possible for States to set maximum amounts on specific items within the category of nonrecurring expenses for which they will reimburse adoptive parents?

Answer: No. The Tax Reform Act of 1986 (Public Law 99-514) amended Title IV-E of the Act to require States to make payments for the nonrecurring adoption expenses incurred by adopting parents in connection with the adoption of children with special needs. The only discretion given States is the flexibility to set a reasonable lower maximum than the \$2000 for which Federal reimbursement is available at a 50% matching rate.

- **Source/Date:** ACYF-CB-PIQ-89-02 (5/23/89)
- **Legal and Related References:** Social Security Act - section 473; The Tax Reform Act of 1986 (P.L. 99-514)

3. Question: States are required to reimburse up to \$2,000, or such lower amount as set by the State, for the non-recurring adoption expenses of parents who adopt children with special needs. The regulations define "non-recurring adoption expenses" as reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs. "Other expenses" were defined as the costs of adoption incurred by or on behalf of the parents and for which parents carry the burden of payment, such as the adoption study, including health and psychological examinations, supervision of the placement prior to adoption, transportation and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the adoption process. Would it be possible for a State to further limit the reimbursable areas within the allowable expense category? For instance, could reimbursement be limited to attorney fees only? Or, could a State elect not to reimburse adoption study fees and transportation costs?

Answer: No. A State may not limit reimbursement for nonrecurring adoption expenses by category. Adoptive parents who apply for reimbursement of the non-recurring expenses of adoption must be reimbursed for any of the non-recurring adoption expenses described at 45 CFR 1356.41 (i) when they adopt a child with special needs as set forth in section 473(c) of the Social Security Act..

- **Source/Date:** ACYF-CB-PIQ-89-02 (5/23/89)
- **Legal and Related References:** Social Security Act - section 473

4. Question: Prospective adoptive parents sometimes have an attorney review the subsidy agreement to ensure that the parents' best interests are addressed. This private attorney review is in addition to the work of the State agency attorneys who prepare the subsidy paperwork. Are attorney fees and other expenses related to the review of the Title IV-E Adoption Assistance Agreement directly related to the legal adoption of a child with special needs and, therefore, allowable under Title IV-E?

Answer: Yes. If the adoptive parents who are adopting a child with special needs incur an attorney fee for review of the adoption subsidy agreement, the State may reimburse the adoptive parents for that expenditure, up to the \$2,000 limit, as a nonrecurring expense of adoption. In addition, the State also may claim the costs of the agency attorney's review of the Adoption Assistance Agreement as an administrative cost, consistent with the policy in the Child Welfare Policy Manual (CWPM), Section 8.1A, Q/A #1.

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- **Source/Date:** 7/6/05
- **Legal and Related References:** Social Security Act -- Section 473(a)(6), 45 CFR 1356.41(i); CWPM, Section 8.1A, Q/A #1

5. Question: Does the nonrecurring adoption expenses limit of \$2,000 (or lower at State option) apply per adoption episode or is it a lifetime limit?

Answer: The nonrecurring adoption expenses limit is applied per adoption episode.

- **Source/Date:** 7/6/05
- **Legal and Related References:** Social Security Act - Section 473(a)(1)(B)(i), 45 CFR 1356.41

6. Question: Can the Title IV-E agency claim Federal financial participation (FFP) for the nonrecurring expenses of adoption if the adoption is never finalized?

Answer: Yes. The State may claim FFP for the nonrecurring expenses of adoption in accordance with the requirements set forth in 45 CFR 1356.41 if:

- there is a Title IV-E agreement for the nonrecurring expenses of adoption between the adoptive parent(s) and the State or local agency; and
- the State has determined that the child is a child with special needs in accordance with section 473(c) of the Social Security Act (the Act).

Consistent with section 473(a)(5) of the Act, payments may be made on behalf of a child in an adoptive placement prior to the finalization of adoption when all eligibility requirements in section 473 of the Act are met and there is a signed Adoption Assistance Agreement between the State or local agency and the adoptive parent(s). The regulation at 45 CFR 1356.41(b) provides that the agreement for the nonrecurring expenses of adoption may be a separate document or a part of the agreement for either Federal or State adoption assistance. In allowing adoption assistance payments to be made prior to the finalization of the adoption, the Department has never differentiated between payments for ongoing adoption assistance under such agreements and payments for the nonrecurring expenses for adoption. Further, nothing in statute or regulation prohibits reimbursement for the expenses incurred by adoptive families in circumstances where the adoption is not finalized.

- **Source/Date:** September 29, 2005
- **Legal and Related References:** Social Security Act – Sections 473(a)(1)(B)(i) and 473(a)(5); 45 CFR 1356.41(b).

8.2D.4 TITLE IV-E, Adoption Assistance Program, Payments, Rates

1. Question: Please explain how the State agency should set rates for Title IV-E adoption assistance payments.

Answer: The amount of the adoption assistance payment cannot exceed the amount the child would have received if s/he had been in a foster family home, but otherwise must be determined through agreement between the adoptive parents and the State or local Title IV-E agency. Unlike other public assistance programs in the Social Security Act, the Title IV-E adoption assistance program is intended to encourage an action that will be a lifelong social benefit to certain children and not to meet short-term monetary needs during a crisis. Further, the adoptive parents' income is not relevant to the child's eligibility for the program.

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Title IV-E adoption assistance is not based upon a standard schedule of itemized needs and countable income. Instead, the amount of the adoption assistance payment is determined through the discussion and negotiation process between the adoptive parents and a representative of the State agency based upon the needs of the child and the circumstances of the family. The payment that is agreed upon should combine with the parents' resources to cover the ordinary and special needs of the child projected over an extended period of time and should cover anticipated needs, e.g., child care. Anticipation and discussion of these needs are part of the negotiation of the amount of the adoption assistance payment.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(3)

2. Question: A State agency wants to include a list of specific circumstances in the Adoption Assistance Agreement that would lead to an automatic reduction in the adoption subsidy amount if the State determines the circumstances occur. These circumstances could include an improvement in the condition of the child or the financial circumstances of the parent, the child's eligibility for other forms of assistance, or the child's re-entry into foster care. Is this practice allowable?

Answer: No. Once a child is adopted and determined to be eligible for Title IV-E adoption assistance, the adoption assistance payments may not be automatically adjusted without the agreement of the adoptive parents for any reason other than an across-the-board reduction or increase in foster care maintenance rates. The statute requires that the adoption assistance payment "take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents depending upon changes in such circumstances (section 473(a)(3) of the Social Security Act)." A State would not be considering the unique circumstances of the child and parents by automatically adjusting the subsidy.

The State agency may describe in the agreement specific circumstances such as those articulated in the question, that may warrant a future re-negotiation and adjustment of the payment. Agreements that are not negotiated to the specific needs of the adoptive child and the circumstances of the family, however, are not permissible.

- **Source/Date:** ACYF-CB-PIQ-98-02 (9/03/98)
- **Legal and Related References:** Social Security Act - section 473(a)(3)

3. Question: Can the State median income adjusted to family size be used as a guide to establish consistency in determining amounts of payment?

Answer: No. The use of such guidelines is not appropriate to the process. During the negotiation of an Adoption Assistance Agreement, it is important to keep in mind that the circumstances of the adopting parents and the needs of the child must be considered together. The overall ability of a singular family to incorporate an individual child into the household is the objective. Families with the same incomes or in similar circumstances will not necessarily agree on identical types or amounts of assistance. The uniqueness of each child/family situation may result in different amounts of payment. Consistency is not the goal.

- **Source/Date:** ACYF-CB-PIQ-90-02 (10/2/90)
- **Legal and Related References:** Social Security Act - sections 473

4. Question: Is it permissible to adjust the amount of the adoption assistance payment after the Adoption Assistance Agreement is signed?

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Answer: Adoption assistance payments made on behalf of a child cannot exceed the amount the child would have received if s/he had been in a foster family home. Accordingly, a State may negotiate an Adoption Assistance Agreement that automatically allows for adjustments to the adoption assistance payment when there is an increase in the foster care board rate. Alternatively, a State may renegotiate an Adoption Assistance Agreement if the adoptive parents request an increase in payment due to a change in their circumstance and a higher foster care rate would have been paid on behalf of the child if the child had still been in foster care. As an example, a child is adopted and the Adoption Assistance Agreement is negotiated for \$250 a month, the same amount the child had been receiving in foster care. If, two years later, the State's monthly foster care board rate is increased to \$400, the family can request that the Adoption Assistance Agreement be renegotiated and receive up to \$400 for the child, since this is the amount the child would have received each month if s/he had continued to be in foster care.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(3)

5. Question: Some State's foster care rate structures are based on levels of care. How would such a structure impact the adoption assistance rates?

Answer: If a State's foster care payment schedule includes higher level-of-care rates that are paid across-the-board for certain children, the State may pay up to that amount in adoption assistance if that specific child would have received the higher level-of-care rate in foster care. In addition, if a State's foster care payment standard includes across-the-board higher foster care rates for working foster parents to pay for child care, or includes provisions for periodic across-the-board increases for such items as seasonal clothing, the Adoption Assistance Agreement may include the higher rate. However, special allowances that may be made on behalf of an individual child in certain situations in foster care, such as child care or clothing allowances, are not permitted as an allowable additional reimbursement in the adoption assistance program. Special allowances for individual children that are over and above the State's foster care payment standard cannot be included in the amount negotiated in the Adoption Assistance Agreement since the adoption assistance payment cannot exceed the foster care maintenance payment rate for the child.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(3)

6. Question: When the State agency enters into an Adoption Assistance Agreement with a family from another State, which State's rate structure applies as the limit for the adoption assistance payment?

Answer: In situations where a child is placed by the State agency in one State with an adoptive family in another State, it is the placing State that would look at its own established foster care rate structure, as well as State law and policy governing its foster care and adoption assistance payments, to determine the amount of assistance available on behalf of the child. If the placing and paying State's law or policy allows flexibility to pay amounts based upon the foster care board rate in the State in which the child is placed for adoption, this practice would be allowable under Title IV-E since the statutory requirement in section 473(a)(3) of the Act would be met.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(3)

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7. Question: May a State's policy limit the maximum adoption assistance payment for any family at a level lower than the maximum foster care maintenance payment a child would have received in a foster family home?

Answer: Federal law and regulations do not prohibit a State from having a law or policy that limits the maximum adoption assistance payments to a level lower than the maintenance payment a child would have received in a foster family home. The law only prescribes that the adoption assistance payment can be no more than the foster care maintenance payment that the child would have received in a foster family home during the same time period (see section 473(a)(3) of the Social Security Act). Within these parameters, however, the State must negotiate the amount of the adoption assistance payment with the adoptive family taking into consideration the needs of the child and the circumstances of the family. Furthermore, from a practice standpoint establishing a lower ceiling within which the State and family may negotiate an adoption assistance payment may reduce the pool of adoptive parents available to provide permanent homes for children with special needs.

- **Source/Date:** 7/7/2006
- **Legal and Related References:** Social Security Act – section 473(a)(3)

8.2D.5 TITLE IV-E, Adoption Assistance Program, Payments, Termination

1. Question: Under what circumstances may the State agency terminate an Adoption Assistance Agreement?

Answer: Title IV-E adoption assistance is available on behalf of a child if s/he meets all of the eligibility criteria and the State agency enters into an Adoption Assistance Agreement with the prospective adoptive parent(s) prior to the finalization of the adoption. The agreement must be signed by all parties to the agreement (namely, the adoptive parents and a State agency representative) in order to meet the requirements for an Adoption Assistance Agreement.

Once an Adoption Assistance Agreement is signed and in effect, it can be terminated under three circumstances only. Namely, (1) the child has attained the age of 18 (or the age of 21 if the State has determined that the child has a mental or physical disability which would warrant continuation of assistance); (2) the State determines that the adoptive parents are no longer legally responsible for support of the child; or (3) the State determines that the adoptive parents are no longer providing any support to the child.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** Social Security Act - section 473(a)(4); 45 CFR 1356.40(b)

2. Question: Section 473(a)(4)(B) of the Social Security Act states that no adoption assistance payment can be made, "to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents." When is a parent considered to be "no longer legally responsible for support" or not providing "any support" for the child?

Answer: A parent is considered no longer legally responsible for the support of a child when parental rights have been terminated or when the child becomes an emancipated minor, marries, or enlists in the military.

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"Any support" includes various forms of financial support. The State may determine that payments for family therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs, are acceptable forms of financial support. Consequently, the State may continue the adoption assistance subsidy, if it determines that the parent is, in fact, providing some form of financial support to the child.

- **Source/Date:** ACYF-CB-PIQ-98-02 (9/03/98)
- **Legal and Related References:** Social Security Act - section 473(a)(4)(B)

3. Question: Can a State agency automatically suspend the adoption assistance payment for the duration of an adopted child's placement in foster care? The State agency would reinstate the payment upon the child's return home.

Answer: No. An automatic suspension is, in effect, the equivalent to a termination of the adoption assistance payment and as such is unallowable under section 473(a)(3)(B) if the parent remains legally responsible or is providing any support for the child. However, consistent with section 473(a)(4)(B) of the Act, there may be circumstances in which adoptive parent(s) may be eligible for payments in a different amount. In these instances, a State may re-negotiate the agreement and reduce the payment for the duration of an adopted child's placement in foster care with the concurrence of the adoptive parent.

- **Source/Date:** ACYF-CB-PIQ-98-02 (9/03/98)
- **Legal and Related References:** Social Security Act - section 473(a)(4)(B)

4. Is it permissible for a State to include a statement in the Title IV-E Adoption Assistance Agreement to the effect that "The Department's obligation to provide for Federally funded adoption assistance payments and/or services is subject to the appropriation of State funds"?

Answer: No. Although we understand that the State may experience difficulties in its ability to pay subsidies due to the State budget, such difficulties do not relieve or alter the State's obligation under Title IV-E to act in accordance with executed Adoption Assistance Agreements. Accordingly, any statement that undermines the State's obligation to honor the terms of the Title IV-E Adoption Assistance Agreement is not consistent with Federal requirements in sections 473(a)(1)(B)(ii) and 473(a)(3) of the Social Security Act. Once an agreement is signed, the State must obtain the concurrence of the adoptive parent if it wishes to make any changes in the payment amount with one exception. That exception is when there is an across-the-board reduction or increase in the foster care maintenance payment rate. In that circumstance, the State may adjust the adoption assistance payment without the adoptive parent's concurrence.

- **Source/Date:** 08/05/08
- **Legal and Related References:** Social Security Act - sections 473(a)(1)(B)(ii) and 473(a)(3); CWPM 8.2D4, Q/A #2)

8.2E TITLE IV-E, Adoption Assistance Program, Promoting Adoption Assistance

1. Question: What is the State's responsibility for notifying prospective adoptive parents about the availability of adoption assistance?

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Answer: The State title IV-B/IV-E agency is required to actively seek ways to promote the adoption assistance program. This means that it is incumbent upon the State agency to notify prospective adoptive parents about the availability of adoption assistance for the adoption of a child with special needs. There is no prescribed way in which promotion of the program must be accomplished. One example would be to alert potential adoptive parents during a recruitment campaign for adoptive homes (websites, newspapers, flyers, etc.). Another example would be to alert every prospective adoptive parent who inquires to the State agency about adoption.

The primary goal of the Title IV-E adoption assistance program is to provide financial support to families who adopt difficult-to-place children from the public child welfare system. These are children who otherwise would grow up in State foster care systems if a suitable adoptive parent could not be found. Thus, the State or local Title IV-E agency is responsible for assuring that prospective adoptive families with whom they place eligible children who are under their responsibility are apprised of the availability of Title IV-E adoption assistance.

However, in circumstances where the State agency does not have responsibility for placement and care, or is otherwise unaware of the adoption of a potentially special needs child, it is incumbent upon the adoptive family to request adoption assistance on behalf of the child. It is not the responsibility of the State or local agency to seek out and inform individuals who are unknown to the agency about the possibility of Title IV-E adoption assistance for special needs children who also are unknown to the agency. This policy is consistent with the intent and purpose of the statute, and that is to promote the adoption of special needs children who are in the public foster care system.

- **Source/Date:** ACYF-CB-PA-01-01 (1/23/01)
- **Legal and Related References:** 45 CFR 1356.40 (f)





ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
	1. Log No: ACYF-CB-IM-07-09	2. Issuance Date: November 13, 2007
	3. Originating Office: Children's Bureau	
	4. Key Words: IV-E State Plan; Adoption Assistance; Self-Assessment	

INFORMATION MEMORANDUM

TO: State and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act.

SUBJECT: Title IV-E Adoption Assistance State Self-Assessment Tool

LEGAL AND RELATED REFERENCES: Title IV-E, Sections 471, 472 and 473 of the Social Security Act; 45 CFR 1356.40-41

PURPOSE: The purpose of this Information Memorandum is to provide States with a self-assessment tool and the option to use it as a guide to review their State's compliance with the Federal requirements of the title IV-E adoption assistance program.

INFORMATION: The title IV-E adoption assistance program self-assessment was developed by the Department of Health and Human Services, Administration for Children and Families, Children's Bureau (CB), to provide a process by which State title IV-E agencies may voluntarily review their title IV-E adoption assistance programs for consistency with Federal requirements. The self-assessment tool is intended only for internal use by State title IV-E agencies. This tool is *not* a Federal requirement and States are *not* required to complete it.

We encourage the State to consult with its appropriate CB Regional Office to address questions or concerns regarding State implementation of the title IV-E adoption assistance requirements.

INQUIRIES: Children's Bureau Regional Program Managers

/s/
Joan E. Ohl
Commissioner

Attachments: Title IV-E Adoption Assistance State Self-Assessment Tool
Title IV-E Adoption Assistance Eligibility Flow Chart





TITLE IV-E ADOPTION ASSISTANCE

State Self-Assessment

**Developed by the Department of Health and Human Services, Administration
for Children and Families, Children's Bureau**

November 2007

TITLE IV-E ADOPTION ASSISTANCE
State Self-Assessment



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Introduction

In order for a State to be eligible to claim Federal financial participation (FFP) for its title IV-E adoption assistance program, it must, in part, have a title IV-E State plan which provides for adoption assistance in accordance with section 473 of the Social Security Act (the Act). The title IV-E State plan must be approved by the Secretary of the Department of Health and Human Services for FFP to be claimed under the plan. All relevant changes to State law, administrative rule, policy, etc., which impact title IV-E adoption assistance must be submitted to the appropriate Regional Office as an amendment to the State's title IV-E State plan.

The title IV-E adoption assistance program self-assessment tool was developed by the Department of Health and Human Services, Administration for Children and Families (ACF), Children's Bureau (CB), to provide a process by which State title IV-E agencies may voluntarily review their title IV-E adoption assistance programs. The self-assessment tool is intended only for internal use by State title IV-E agencies. This tool is **not** a Federal requirement and States are not required to complete it. We do hope, however that States will take advantage of the document and that the self-assessment will serve as a useful tool for the State to identify whether State laws, regulations, policies and procedures should be modified to meet Federal requirements. It should be noted that the self-assessment tool covers the general rules related to title IV-E adoption assistance eligibility and that only the requirements in statute, regulations and the Child Welfare Policy Manual are formal statements of Federal law or policy. Case-specific inquiries should be directed to the State's appropriate Regional Office.

Using the self-assessment tool does not preclude ACF from conducting a partial review in accordance with Federal regulations at 45 CFR 1355.32(d). However, we believe that a State's better understanding of the Federal requirements for the title IV-E adoption assistance program will enable the State to proactively make any necessary changes to assure consistency with the title IV-E adoption assistance program.

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Statutory Background

The *Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272)* establishes the Federal title IV-E adoption assistance program which provides matching funds to States operating a program of subsidies for parent(s) who adopt children with special needs who were either eligible for Aid for Families with Dependent Children (AFDC) or Supplemental Security Income (SSI).

The *Tax Reform Act of 1986 (P.L. 99-514)* provides Federal matching funds to States that reimburse parents nonrecurring expenses of adopting a child with special needs.

The *Omnibus Budget and Reconciliation Act of 1987 (P.L. 100-203)* amended the title IV-E adoption assistance eligibility criteria to include certain children who are voluntarily placed in foster care, as well as certain children who lived with his/her minor parent who was in foster care.

The *Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193)*, as amended, links a child's eligibility for the title IV-E programs to meeting criteria in a State's former AFDC plan, as in effect on July 16, 1996.

The *Adoption and Safe Families Act of 1997 (P.L. 105-89)* provides that title IV-E adoption assistance-eligible children retain their eligibility for such assistance in a subsequent adoption if the adoptive parent(s) die or the adoption dissolves with a termination of parental rights and the child remains a child with special needs. It also requires the State to conduct a criminal records check (unless the State opted out) on prospective adoptive parent(s) of children who would receive title IV-E adoption assistance.

The *Foster Care Independence Act of 1999 (P.L. 106-169)* increases the AFDC resource limit from \$1,000 to \$10,000 for title IV-E foster care and title IV-E adoption assistance eligibility purposes.

The *Deficit Reduction Act of 2005 (P.L. 109-171)* clarifies that for title IV-E adoption assistance, a child must meet the July 16, 1996 State AFDC eligibility criteria in the specified relative's home from which s/he is removed. This legislation also eliminates the requirement that a child had to be AFDC-eligible at the time of the initiation of the adoption proceedings.

The *Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248)* requires fingerprint-based FBI background checks for prospective adoptive parent(s) and, in all cases, prohibits the State from claiming title IV-E adoption assistance if the prospective adoptive parent(s) have certain felony convictions. This legislation further requires child abuse and neglect registry checks in each State where each of the adults in the prospective adoptive home have lived in the past five years.

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Instructions

To complete the title IV-E adoption assistance State self-assessment tool, we recommend that the State thoroughly review all applicable documents related to its title IV-E adoption assistance program, including adoption statutes, administrative rules, policies, procedures, practice manuals, Adoption Assistance Agreement(s), worksheets used to determine eligibility, brochures, and training materials. The State also should cross-check the documents to assure that there are no inconsistencies among them. We encourage the State to use the self-assessment tool to consult with its appropriate CB Regional Office to address questions or concerns regarding State implementation of the title IV-E requirements.

Each section of the State self-assessment tool provides the requirements and restrictions relating to a specific Federal provision of the title IV-E adoption assistance program. Questions relating to the requirement follow which allow for a response of “YES,” “NO,” or “NEEDS CLARIFICATION.” After each response, there is a statement which informs the State as to whether the State provisions are consistent with Federal guidelines. If the State needs to review and research the question further before determining whether the response is “YES” or “NO,” the “NEEDS CLARIFICATION” selection provides that opportunity. Certain questions allow a response of “N/A” when they involve a provision that is optional. As noted above, States are encouraged to work with their appropriate Regional Office with any questions that are marked “NEEDS CLARIFICATION” to help the State determine whether the State provision(s) are consistent with Federal requirements.

Following the questions in each section of the self-assessment, space is provided for the State to record: 1) steps to address areas needing clarification; 2) any areas where the State’s provisions are inconsistent with Federal requirements; 3) actions needed to assure the State’s program meets Federal requirements; and 4) the citations in State law, administrative rules, policies, etc., used by the State for review of the requirement.

At the end of each self-assessment section, the Federal legal and related references applicable to that section are provided.

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*Please note that the self-assessment applies only to requirements for the Federal title IV-E adoption assistance program and does **not** apply to any State-funded adoption assistance program.*

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Section I: Special Needs Determination

A child's eligibility for title IV-E adoption assistance is based, in part, on a determination by the State that the child is a child with special needs. A determination of special needs is a three-part requirement established in section 473(c) of the Act. All three parts of the special needs provision must be met in order for a child to be considered a child with special needs. The determination of special needs must be made by the State prior to the finalization of the adoption¹. Those three parts are as follows:

- 1) The child cannot or should not be returned to the home of his or her parent(s);
- 2) There exists a specific factor or condition which makes it reasonable to conclude that the child cannot be adopted without providing title IV-E adoption assistance or title XIX medical assistance; and
- 3) The State must make a reasonable, but unsuccessful, effort to place the child for adoption with appropriate adoptive parent(s) without providing adoption assistance. The only exception to this requirement is in situations where it would be against the best interests of the child due to such factors as the existence of significant emotional ties with the prospective adoptive parent(s) while in their care as a foster child, or adoption by a relative (in keeping with the statutory emphasis on the placement of children with relatives).

The following provides the specific Federal requirements for each of the three parts of a determination of special needs and follows with questions to help the State assess whether its program is consistent with the requirements:

(1) The child cannot or should not be returned to the home of his or her parent(s): This determination can be based on evidence by an order from a court of competent jurisdiction that terminates parental rights, the existence of a petition to the court for a termination of parental rights (TPR), or a signed relinquishment by the parent(s). In addition, if a child can be adopted in accordance with State or Tribal law without a TPR or relinquishment, the requirement of section 473(c)(1) of the Act can be satisfied as long as the State has documented the valid reason why the child cannot or should not be returned to the home of his or her parent(s).

¹ Please see section IX on Fair Hearings. A favorable fair hearing decision may allow the State to determine after the finalization of the adoption that a child met the special needs criteria prior to finalization.

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Questions Specific to this Requirement:

(A)(i) Does the State limit a determination that a child cannot or should not be returned to his or her parent(s) to the following: a TPR; a petition to the court for a TPR; or a signed relinquishment by the child's parent(s)?

YES

NO

NEEDS CLARIFICATION

(A)(ii) If no, does State law allow adoptions without a TPR, a petition to the court for a TPR, or a signed relinquishment by the parent(s)?

YES

NO

NEEDS CLARIFICATION

If both (A)(i) and (A)(ii) are no, this is inconsistent with Federal requirements.

(B) Does the State apply any additional criteria for a determination that the child cannot or should not be returned to the home of his or her parent(s)?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

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(2) There exists a specific factor or condition which makes it reasonable to conclude that the child cannot be adopted without providing title IV-E adoption assistance or title XIX medical assistance: Examples in section 473(c)(2)(A) of the Act include a child’s ethnic background, age or membership in a minority or sibling group, the presence of a medical condition, or physical, mental or emotional disability. Each State has the discretion to determine the factors or conditions which make it difficult to place a child without adoption assistance, but the factors or conditions must be similar in nature to those noted in the Act. For instance, the factor or condition cannot have the effect of adding additional eligibility criteria, such as requiring that the State have placement and care responsibility of a child.

Questions Specific to this Requirement:

(A)(i) Does the State make a determination that it is reasonable to conclude that the particular child cannot be placed without providing adoption or medical assistance based on a specific factor or factors/conditions?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(A)(ii) If yes, is the factor or condition similar in nature to the examples in section 473(c) of the Act?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State’s program meets Federal requirements:

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Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

(3) The State must make a reasonable, but unsuccessful, effort to place the child for adoption with appropriate adoptive parent(s) without providing adoption assistance. The only exception to this requirement is in situations where it would not be in the child's best interests due to such factors as the existence of significant emotional ties with the prospective adoptive parent(s) while in their care as a foster child. This exception also extends to other circumstances that are not in the child's best interests, including adoption by a relative in keeping with the statutory emphasis on the placement of children with relatives: A State can meet the requirement to make a reasonable effort to place the child without assistance by using adoption exchanges, making referrals to appropriate specialized adoption agencies, or other such activities.

The State must document in each child's case record the specific factor(s) that make the child difficult to place and describe the efforts to place the child for adoption without providing assistance. It should be noted that the State is not required to shop around for a family who will adopt without assistance while a child remains in foster care. Rather, once the agency has determined that placement with a certain family is in the child's best interests, the agency should make full disclosure about the child's background, as well as known or potential problems. If the agency has determined that the child cannot or should not return home and the child meets the statutory definition of special needs with respect to specific factors or conditions, the agency can pose the question of whether the prospective adoptive parents are willing to adopt without assistance. If they say they cannot adopt the child without adoption assistance, the requirement in section 473(c)(2)(B) for a reasonable, but unsuccessful, effort to place the child without providing assistance will be met.

Questions Related to this Requirement:

(A) Does the State require that a reasonable, but unsuccessful, effort be made to place a child for adoption without providing adoption assistance unless it is against the best interest of the child to do so?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

(continued on next page)



List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Special Needs Determination:

*Sections 473(a)(1)(B), 473(a)(2)(A)(ii), and 473(c) of the Social Security Act
Child Welfare Policy Manual, Section 8.2B.11 (1-2)*

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Section II: Pathways to Eligibility

Federal law requires that any child who is determined by the State to be a child with special needs and meets the criteria under one of four pathways to eligibility be eligible for title IV-E adoption assistance (section 473(a)(2)(A) of the Social Security Act (the Act))². The four pathways to eligibility are:

- 1) A child who was eligible for Aid to Families with Dependent Children (AFDC); or
- 2) A child who is eligible for Supplemental Security Income (SSI) benefits; or
- 3) A child who is a child of a minor parent in title IV-E foster care; or
- 4) A child who was eligible for title IV-E adoption assistance in a previous adoption.

The following provides the specific Federal requirements for each of the four pathways to eligibility and follows with questions to help the State assess its compliance with the requirements. Additional eligibility criteria that are not in Federal statute may not be applied to the child³.

(1) A child who was eligible for Aid to Families with Dependent Children (AFDC): Under this pathway, the State must determine that the child would have been eligible for AFDC (pursuant to the State's title IV-A plan as in effect on July 16, 1996) in the specified relative's⁴ home from which s/he is removed in the month of, but prior to, the voluntary placement agreement (VPA) or initiation of court proceedings (petition) to remove the child from his/her home. If there is no petition in a court-ordered removal, then AFDC eligibility is determined in the month of, but prior to, the date of the child's removal in physical removals or the date of the removal order in constructive removals.⁵ For children who are adopted on or after October 1, 2005, States must determine AFDC eligibility only at the time of the child's removal from the home.⁶

²See sections III and IV for additional requirements related to criminal background checks and immigration status that must be met for a family to receive title IV-E adoption assistance.

³Additional eligibility criteria include the three-part special needs determination, criminal records clearances for the prospective adoptive parents and child abuse and neglect registry checks of the prospective parents and any other adult living in the home, and a determination that the child and adoptive parents, if not U.S. citizens, meet the qualified alien provisions of PRWORA.

⁴For the purpose of title IV-E adoption assistance eligibility, a specified relative is defined as any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. This includes great-great-grandparents and first cousins once removed (children of first cousins). (45 CFR 233.90(c)(1)(v))

⁵A constructive removal is a legal or paper removal of a child who is not living with the specified relative from whom s/he is being removed at the time of removal. See 45 CFR 1356.21(k) for further guidance on this topic.

⁶Prior to that date, the State had to determine that the child continued to be eligible for AFDC at the time of the initiation of adoption proceedings. This requirement was removed by the Deficit Reduction Act of 2005 (P.L. 109-171).

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Under this pathway, if a child is removed from his/her home pursuant to a VPA, there must have been at least one title IV-E foster care maintenance payment made on behalf of the child under the VPA in order for the child to be eligible for title IV-E adoption assistance. Therefore, in this situation – and only in this situation – the child must have been under the responsibility for placement and care of the State agency, or another public agency with which the State agency has a title IV-E, section 472 agreement to receive that title IV-E foster care maintenance payment. For the purpose of title IV-E adoption assistance eligibility, there is no specified amount of time that a child must have been in foster care under a VPA and no requirement for a judicial determination within 180 days of placement to the effect that the placement is in the child's best interest.

If a child's removal from his/her home is court-ordered, the removal must be the result of a judicial determination in the first court order removing the child from the home to the effect that to remain in the home would be contrary to the child's welfare.⁷ The child does not have to be under the responsibility for placement and care of the State agency or receive a title IV-E foster care maintenance payment in court-ordered removals. There is no requirement under title IV-E adoption assistance for a "reasonable efforts" judicial determination. That requirement applies only to title IV-E foster care.

Although a condition of eligibility is that the child must be removed from his/her home pursuant to a voluntary placement agreement or a judicial determination that to remain in the home would be contrary to the child's welfare, a child who is relinquished to a public or a private, non-profit agency, or placed with a private, non-profit agency under a voluntary placement agreement can be considered judicially removed under the following circumstances:

- the child is voluntarily relinquished either to the State agency (or another public agency with which the State has a title IV-E agreement), or voluntarily placed with a private, non-profit agency; and
- there is a petition to the court to remove the child from his/her home within six months of the time the child lived with the specified relative from whom s/he was removed; and
- there is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.

⁷For children removed from their homes before January 23, 2001 (the date of ACYF-PA-01-01 which established that the timing for the contrary to the welfare determination for title IV-E adoption assistance is the same as for title IV-E foster care), the contrary to the welfare determination is allowed in any court order up to the time of the initiation of adoption proceedings. For children removed on or after that date (1/23/01), the judicial determination must be made in the first court order that sanctions the child's removal from the home.

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Questions Specific to the AFDC Pathway:

(A) When a child's title IV-E adoption assistance eligibility is based on his/her AFDC eligibility, is the child's removal from the home of a specified relative the result of either a voluntary placement agreement or a judicial determination that to remain in the home would be contrary to the child's welfare?⁸

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) If a child is relinquished to a public or a private non-profit agency, or placed with a private non-profit agency under a voluntary placement agreement, does the State require a subsequent judicial determination that to remain in the home would be contrary to the child's welfare which is initiated within six months of the date the child last lived with the specified relative from whom s/he was removed for title IV-E adoption assistance eligibility?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(C) Does the State determine AFDC eligibility based on the circumstances in the home of the specified relative from which the child is removed – that is, the home of the specified relative who entered into the VPA with the State agency or the home upon which there is a judicial determination regarding contrary to the welfare?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(D) Does the State determine AFDC eligibility based on the circumstances in the child's home in the month of, but prior to, the voluntary placement agreement or petition to the court to remove the child from the home?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(E) After a determination of AFDC eligibility at the time of a child's removal from his/her home, does the State require a redetermination of the child's AFDC eligibility, for title IV-E eligibility purposes, prior to the finalization of the adoption?

YES

NO

NEEDS CLARIFICATION

⁸As noted in the discussion on the previous page, a voluntary relinquishment may be considered a judicial removal if there is a petition to the court to remove the child from his/her home within six months of the date the child last lived with the specified relative from whom s/he was removed and there is a subsequent judicial determination that to remain in the home would be contrary to the child's welfare.

(continued on next page)



If yes, this is inconsistent with Federal requirements.

(F) Does the State determine financial need based on its AFDC plan as in effect on July 16, 1996?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(G) Does the State determine deprivation of parental support for the child based on its AFDC plan as in effect on July 16, 1996?⁹

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(H) Does the State use Temporary Assistance for Needy Families (TANF), or other income-based criteria to determine a child's eligibility for title IV-E adoption assistance?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(I) If a child is judicially removed from his/her home, does the State require a judicial determination to the effect that to remain in the home would be contrary to the child's welfare in the first court order sanctioning the child's removal (for children removed on or after January 23, 2001), or in any court order prior to the initiation of adoption proceedings (for children removed before January 23, 2001) to be eligible for title IV-E adoption assistance?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(J) If a child is judicially removed from his/her home, does the State require a judicial determination that reasonable efforts were made to prevent the child's removal from his/her home for title IV-E adoption assistance eligibility?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

⁹States with an AFDC plan, as in effect on July 16, 1996, that included the "unemployed parent" option, had the opportunity to amend its AFDC plan to expand its definition of "unemployed parent" to include hours of work, dollar amounts earned, and family size in establishing the reasonable standard of unemployment. See 45 CFR 233.101(a)(1) for further guidance.

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(K) If a child is removed pursuant to a VPA, does the State require that the child receive at least one title IV-E foster care maintenance payment as a condition of title IV-E adoption assistance eligibility?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(L) If a child is removed pursuant to a VPA, does the State require a subsequent judicial determination to the effect that to remain in care is in the child's best interests?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(M) If a child is removed pursuant to a VPA, does the State require that the child be in foster care for a specified length of time in order to be eligible for title IV-E adoption assistance?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(N) Other than a determination of special needs, does the State apply any additional criteria to the AFDC-eligible child's eligibility for title IV-E adoption assistance that are not in Federal law, such as the child's being a ward of the State or eligible for title IV-E foster care, etc.?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

(continued on next page)



Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for AFDC Pathway:

Sections 473(a)(2)(A)(i)(I) of the Social Security Act

Child Welfare Policy Manual, Sections 8.2B (1-2); 8.2B.7 (1-2); 8.2B.10 (1); and 8.2B.13 (1)

(2) A child who is eligible for Supplemental Security Income (SSI) benefits: If a child is being determined eligible for title IV-E adoption assistance through the SSI pathway, the child must be determined eligible for SSI by the Social Security Administration prior to the finalization of the adoption. If the SSA final notice of eligibility is received after the finalization, but determines that the child's SSI eligibility began prior to finalization, that is acceptable. However, in all cases, a title IV-E Adoption Assistance Agreement must be in place prior to the finalization of the adoption unless a fair hearing decision is favorable to the adoptive family. Only a designated Social Security Administration claims representative can determine a child's SSI eligibility and provide the appropriate eligibility documentation to the State for the child's file. Additional eligibility criteria that are not in Federal statute may not be applied to the child.

Questions Specific to the SSI Pathway:

(A) If a child's eligibility is based on his/her eligibility for SSI, does the State accept only a written confirmation of eligibility from the Social Security Administration?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Must a child be eligible for SSI prior to the finalization of the adoption to be eligible for title IV-E adoption assistance?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(C) Does the State restrict title IV-E adoption assistance eligibility to children who are SSI eligible at a fixed point in time prior to finalization, such as at the time of the petition to adopt?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(continued on next page)



(D) Other than the requirements in Federal law, does the State apply additional eligibility criteria for SSI-eligible children to be eligible for title IV-E adoption assistance?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for SSI Pathway:

Section 473(a)(2)(A)(i)(II) of the Social Security Act

Child Welfare Policy Manual, Sections 8.2B (1) and 8.2B.12 (1-2)

(3) A child who is a child of a minor parent in title IV-E foster care: A child is eligible for title IV-E adoption assistance through this pathway if the minor parent's title IV-E foster care maintenance payment covers the child's cost of care while the child was with the minor parent in foster care. Additional eligibility criteria that are not in Federal statute may not be applied to the child.

(continued on next page)



Questions Specific to the Child of a Minor Parent Pathway:

(A) Does the State provide title IV-E adoption assistance for a child of a minor parent whose title IV-E foster care maintenance payment covers the cost of the child's care while with the minor parent in foster care?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Other than the requirements in Federal law, does the State apply additional eligibility criteria for a child of a minor parent for the child to be eligible for title IV-E adoption assistance?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Child of Minor Parent Pathway:

*Sections 473(a)(2)(A)(i)(III), and 473(b)(4) of the Social Security Act
Child Welfare Policy Manual, Section 8.2B (1) and 8.2B.3 (1-2)*

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(4) A child who was eligible for title IV-E adoption assistance in a previous adoption: A child continues to be eligible for title IV-E adoption assistance in a subsequent adoption if the child was eligible for title IV-E adoption assistance in a previous adoption and the adoptive parent(s) die, or the adoption is dissolved as a result of a termination of parental rights. Continued title IV-E adoption assistance eligibility and payments are not authorized for a child placed with an individual who is not adopting the child, or in situations where the child is placed with a legal guardian. Nor may the State “transfer” the child’s payment to anyone after the adoptive parents die/adoption dissolved. Rather, the State must determine that the child continues to be a child with special needs and enter into a new title IV-E Adoption Assistance Agreement with the subsequent adoptive parent(s). Both the determination of special needs and a signed title IV-E Adoption Assistance Agreement must be completed prior to the finalization of the adoption. Additional eligibility criteria that are not in Federal statute may not be applied to the child.

Questions Specific to a Child Eligible in a Previous Adoption Pathway:

(A) Does the State provide title IV-E adoption assistance in a subsequent adoption for a child who was eligible for title IV-E adoption assistance in a previous adoption if the adoptive parent(s) die or the adoption is dissolved as a result of a termination of parental rights?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Does the State transfer a child’s title IV-E adoption assistance to a legal guardian or other individual with whom the child is placed after the adoptive parent(s) die or the adoption is dissolved?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(C) Does the State require a determination of special needs based on the three-part requirement in section 473(c) of the Act in order for a child to be eligible in a subsequent adoption?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(D) Does the State require a new title IV-E Adoption Assistance Agreement to be negotiated with the subsequent adoptive parent(s) if a child was eligible for title IV-E adoption assistance in a previous adoption in which the adoptive parent(s) die or the adoption is dissolved?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(continued on next page)



(E) Does the State apply other eligibility criteria that are not in the statute to a child who was eligible for title IV-E adoption assistance in a previous adoption if the adoptive parent(s) die or the adoption is dissolved as a result of a termination of parental rights?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Child Eligible from Previous IV-E AA Eligibility:

Section 473(a)(2)(C) of the Social Security Act

Child Welfare Policy Manual, Sections 8.2A.1 (4); 8.2B (1); and 8.2B.4 (1-2)

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Section III: Background Checks

Prior to October 1, 2006, section 471(a)(20)(A) of the Act required States to conduct background checks of prospective adoptive parents unless the State opted out. For those States that did not opt out, title IV-E adoption assistance may not be claimed by the State if the criminal records check reveals that a prospective adoptive parent has a felony conviction for child abuse or neglect; spousal abuse; a crime against children (including child pornography); or for a crime involving violence (including rape, sexual assault, or homicide, but not including other assault and battery). In addition, title IV-E adoption assistance may not be claimed by the State if the prospective adoptive parent has been convicted of the following felonies within the past five years: physical assault; battery; or a drug-related offense. Those States that opted out instead had to ensure that safety considerations with respect to the caretakers had been met for title IV-E adoption assistance as of March 2001.

As of October 1, 2006, or a delayed effective date approved by ACF, States that did not opt out of the former criminal background provision must secure a fingerprint-based check of the National Criminal Information Database (NCID) for prospective adoptive parent(s). The provisions prohibiting States from claiming title IV-E adoption assistance for prospective foster parents with certain felony backgrounds remain. If a State opted out of the criminal records check provision on or before September 30, 2005, the State is exempt from the criminal background check and felony conviction exclusion until October 1, 2008.

As of October 1, 2006, or a delayed effective date approved by ACF, section 471(a)(20)(C) of the Act requires States to conduct a check of the State-maintained child abuse and neglect registries in all States in which the prospective adoptive parent(s) and all other adults living in the adoptive home have resided in the last five years.

Questions Related to this Requirement:

(A) If your State opted out of the original criminal background check requirement prior to September 30, 2005, are safety considerations addressed for the adoptive parents prior to approving the home?

N/A YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B)(i) If the NCID-background checks are NOT currently in effect in the State, and the State has not opted out, does the State require a criminal background check at either the Federal/State/local level for all prospective adoptive parents prior to approval?

N/A YES NO NEEDS CLARIFICATION

(continued on next page)



(B)(ii) If the NCID-background checks are currently in effect in the State, does the State require a fingerprint-based check of the NCID for all prospective adoptive parent(s), or some other authorized alternative for individuals who cannot be fingerprinted appropriately prior to approval?

N/A YES NO NEEDS CLARIFICATION

If either (B)(i) or (ii) is no, this is inconsistent with Federal requirements.

(C) If either (B)(i) or (ii) is yes, is title IV-E adoption assistance available when the State places a child with a prospective adoptive parent who has a felony conviction for child abuse or neglect; spousal abuse; a crime against children (including child pornography); or for a crime involving violence (including rape, sexual assault, or homicide, but not including other assault and battery)?

N/A YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(D) If the response to either (B)(i) or (ii) is yes, is title IV-E adoption assistance available when the State places an adoptive child in a home of a prospective adoptive parent who has had a felony conviction within the past five years for physical assault; battery; or a drug-related offense?

N/A YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(E) If currently in effect in the State, does the State request a check of the State-maintained child abuse and neglect registries in all States in which the prospective adoptive parent(s) and all other adults living in the home have resided in the past five years?

N/A YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(F) If currently in effect in the State, does the State respond to a request for information on prospective adoptive parents and other adult household members from its State-maintained child abuse and neglect registries?

N/A YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

(continued on next page)



List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Background Checks:

Section 471(a)(20) of the Social Security Act

Child Welfare Policy Manual, Section 8.4F

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Section IV: Child's Immigration Status

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, as amended, limited Federal public benefits to qualified aliens. Adoption assistance under title IV-E of the Act is considered a Federal public benefit for the purposes of the PRWORA and, therefore, limited to U.S. citizens and qualified aliens. The definition of a *qualified alien*, at 8 USC 1641(b), includes but is not limited to, permanent residents, asylees, and refugees (see U.S. Citizenship and Immigration Service website at www.uscis.gov/portal/site/uscis for more details). Children who are illegal aliens or undocumented immigrants are not eligible for adoption assistance since they are not qualified aliens.

In addition, section 403 of PRWORA requires a qualified alien entering the United States on or after the date of enactment of PRWORA (August 22, 1996), unless excepted, to live in the United States for five years before becoming eligible for certain Federal public benefits. In accordance with section 403(c)(2)(F) of PRWORA, however, Federal payments for adoption assistance are excluded from this five-year residency requirement if the child and the foster or adoptive parent(s) with whom s/he is placed are qualified aliens. Accordingly, if a foster or adoptive parent is not a qualified alien, a child who is otherwise eligible under section 473 of the Act must meet the five-year residency requirement to receive title IV-E adoption assistance.

Questions Specific to Child's Immigration Status

(A) Does the State limit title IV-E adoption assistance eligibility only to citizens or qualified alien children who are otherwise eligible for title IV-E adoption assistance?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) To receive title IV-E adoption assistance, does the State require that the qualified alien child meet the five-year residency requirement if the child is placed with an adoptive parent who is not a qualified alien?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

(continued on next page)



Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Child's Immigration Status:

Section 473(a)(2)(B) of the Social Security Act

Section 403(c)(2)(F) of PRWORA

Child Welfare Policy Manual, Section 8.4B (1), (5-7), and (9)

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Section V: Nonrecurring Expenses of Adoption

The State must enter into an Adoption Assistance Agreement prior to the finalization of the adoption and reimburse (up to \$2000, or at State option a reasonable lower limit) the nonrecurring adoption expenses incurred by any parent who is adopting a child with special needs¹⁰. Consistent with the regulations at 45 CFR 1356.41(f)(2), if a State sets a lower maximum, it must be based on reasonable charges, consistent with State and local practices, for special needs adoptions in the State. The basis for setting a lower maximum must be documented and available for public inspection.

The only eligibility criterion to be applied for reimbursement of the nonrecurring expenses of adoption is that the State determine that the child meets the three-part special needs criteria, in accordance with section 473(c) of the Act. A child does not have to be eligible for AFDC, title IV-E foster care, or SSI in order for the adoptive parent(s) to be reimbursed for their nonrecurring adoption expenses.

The term “nonrecurring adoption expenses” is defined in section 473(a)(6)(A) of the Act and 45 CFR 1356.41(i) as the reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of State or Federal law, and which have not been reimbursed from other sources or funds. The regulations at 45 CFR 1356.41(i) define “other expenses” as the costs of the adoption incurred by or on behalf of the parent(s) and for which the parent(s) carry the ultimate liability for payment. Such costs may include, but are not limited to, expenses for adoption studies, health and psychological examinations, supervision of the placement prior to the adoption, and reasonable costs of transportation, lodging, and food when necessary to complete the placement or the adoption process.

When the adoption involves an interstate placement, the State entering into the Adoption Assistance Agreement with the prospective adoptive parent(s) is responsible for paying the nonrecurring adoption expenses. If no Federal or State Adoption Assistance Agreement exists for an ongoing subsidy, the State in which the final adoption decree is issued is responsible for reimbursing the nonrecurring adoption expenses if the child is determined to be a child with special needs (45 CFR 1356.41(h)).

In accordance with 45 CFR 1356.41(f)(3), when siblings are adopted, each child is treated as an individual with separate reimbursement for the nonrecurring expenses of adoption up to the maximum amount allowable for each child.

The nonrecurring expenses of adoption may be reimbursed on behalf of a child in an adoptive placement regardless of whether the adoption is ever finalized, so long as the State has determined that the child is a child with special needs and there is a title IV-E agreement for the nonrecurring expenses of adoption between the adoptive parent(s) and the State or local agency.

Although the Adoption Assistance Agreement must be signed and in effect prior to the finalization of the adoption, FFP is available for claims for reimbursement that are made by the adoptive parent(s) up to two years from the date of the finalization of the adoption.

¹⁰Please note exception for favorable fair hearing decisions.

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Questions Related to the Nonrecurring Expenses of Adoption Requirement:

(A) Does the State enter into an agreement to reimburse adoptive parent(s) for the nonrecurring adoption expenses incurred, up to \$2000 or a reasonable lower limit, in the adoption of a child with special needs?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Does the State apply the three-part special needs determination to the child to determine whether the parent(s) are eligible for reimbursement of the nonrecurring adoption expenses incurred in the adoption of the child?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(C) Does the State apply any additional criteria not in Federal law, such as requiring a child's eligibility for ongoing title IV-E adoption assistance, requiring an income eligibility test for the adoptive parent(s) or limiting reimbursement by category, for reimbursement of the nonrecurring expenses of adoption?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(D)(i) Does the State set a reasonable lower limit than the \$2000 allowed by Federal regulations?

YES NO NEEDS CLARIFICATION

(D)(ii) If yes, is the lower amount based on reasonable charges, consistent with State and local practices, for special needs adoptions within the State?

N/A YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(E) Does the State require that the Adoption Assistance Agreement for reimbursement of the nonrecurring expenses of adoption be signed by the parents and the agency prior to the finalization of the adoption?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(continued on next page)



(F) When siblings are adopted, either together or individually, does the State treat each individually with a separate reimbursement for the nonrecurring expenses of adoption incurred on behalf of each sibling?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(G) Does the State enter into an Adoption Assistance Agreement and reimburse the nonrecurring expenses of adoption if it places a special needs child with adoptive parent(s) in another State?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for the Nonrecurring Expenses of Adoption:

Sections 473(a)(1)(B)(i) and 473(a)(6) of the Social Security Act

45 CFR 1356.41

Child Welfare Policy Manual, Sections 8.2D.3 (1-6), 8.2A.2 (1), 8.2D.4 (1-7), and 8.4D (1-2)

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Section VI: Adoption Assistance Agreements

Title IV-E adoption assistance is available on behalf of a title IV-E eligible child if the State agency enters into an Adoption Assistance Agreement with the prospective adoptive parent(s) prior to the finalization of the adoption¹¹. The agreement must be signed by all parties to the agreement (namely, the adoptive parent(s) and State agency representative), and a signed copy given to each party.

The agreement must specify:

- the duration of the agreement;
- the nature and amount of any payment, service and assistance to be provided;
- that the child is eligible for title XIX Medicaid;
- that the agreement shall remain in effect regardless of the State in which the adoptive parent(s) reside; and
- states the interests of the child are protected in cases where the adoptive parent(s) and child move to another State.

The State may enter into an Adoption Assistance Agreement and begin paying title IV-E adoption assistance prior to the finalization of the adoption once the child is placed in the adoptive home and determined eligible for title IV-E adoption assistance.

Once determined eligible for title IV-E adoption assistance, a child is eligible up to the age of 18. The State has the option to continue to provide assistance up to the age of 21 if the State determines that the child has a mental or physical disability which warrants continuation of adoption assistance. If the child does not have such a disability, the child is not eligible for title IV-E adoption assistance beyond the age of 18. States may limit the duration of payments under an Adoption Assistance Agreement for an individual child to a period which may end before the child's 18th birthday, but such decisions must be made on a case-by-case basis with the concurrence of the adopting parent(s) and taking into consideration the needs of the child and the circumstances of the parent(s). The State may not have a blanket policy which limits the duration of adoption assistance to a date earlier than the 18th birthday of eligible children.

A title IV-E Adoption Assistance Agreement can be terminated only under three circumstances: (1) the child has attained the age of 18 (or the age of 21, at State option, if the State determines that the child has a mental or physical disability which warrants continuation of assistance); (2) the State determines that the adoptive parent(s) are no longer legally responsible for support of the child; or (3) the State determines that the adoptive parent(s) are no longer providing any support to the child. A parent is considered no longer legally responsible for support of the child when parental rights have been terminated or when the child becomes an emancipated minor, marries, or enlists in the military. "Any support" is defined as various forms of financial support, such as family therapy, tuition, clothing, maintenance of special equipment in the home, or services for the child's special needs. Thus, title IV-E adoption assistance can continue even in situations where the child is no longer living in the home, so long as the State determines that the parent is providing some form of financial support for the child.

¹¹Please note exception for favorable fair hearing decisions.

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Questions Specific to the Adoption Assistance Agreement

(A) Is title IV-E adoption assistance available only when the Adoption Assistance Agreement is in effect prior to the finalization of the adoption, unless a fair hearing rules in favor of an eligible child after the finalization of the adoption?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Does the title IV-E Adoption Assistance Agreement include all the required elements: 1) the duration of the agreement; 2) the nature and amount of any payment, service and assistance to be provided; 3) that the child is eligible for title XIX Medicaid; 4) that the agreement shall remain in effect regardless of the State in which the adoptive parent(s) reside; and 5) that the interests of the child are protected when the adoptive parent(s) and child move to another State?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

If no, list the missing elements:

(C) Does the State terminate or otherwise suspend title IV-E adoption assistance without the concurrence of the adoptive parent(s) for reasons other than those enumerated above?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(D) If the State requires recertification of eligibility or renewal of the Adoption Assistance Agreement, does the State terminate or suspend title IV-E adoption assistance if the recertification or renewal is not returned to the State or not returned in a timely manner?

N/A YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(E) Does the State provide title IV-E adoption assistance beyond the age of 18 for any reason other than a child's mental or physical handicap which warrants continuation of assistance?

YES NO NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

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(F) If the State begins title IV-E adoption assistance before the finalization of the adoption, does the State require that the child be placed in the adoptive home, all eligibility criteria be met and the Adoption Assistance Agreement be signed by all parties?

N/A

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Adoption Assistance Agreements:

Sections 473(a)(1)(A) and 473(a)(1)(B) of the Social Security Act

45 CFR 1356.40(b) and (d)-(e)

Child Welfare Policy Manual, Sections 8.2A.1 (1-3)

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Section VII: Adoption Assistance Rates

The amount of the title IV-E adoption assistance payment cannot exceed the amount the child would have received if s/he had been in a foster family home, but otherwise must be determined through agreement between the adoptive parents and the State or local title IV-E agency. The title IV-E adoption assistance program is intended to encourage an action that will be a lifelong social benefit to certain children. The payment that is agreed upon should combine with the parent(s)' resources to cover the ordinary and special needs of the child projected over an extended period of time. The amount of assistance may be readjusted periodically, with the concurrence of the adoptive parent(s), not to exceed the amount the child would have received if s/he had been in a foster family home.

In determining the maximum amount a child would have received in a foster family home, and thus the maximum amount of adoption assistance, the State may take into consideration its level-of-care rates. In addition, the State may include such items as child care costs, if the State includes such payments across-the-board for children of working foster parent(s), and periodic across-the-board increases in the rates that certain children receive in foster care, such as a school clothing allowance, etc. However, title IV-E adoption assistance cannot include additional payments if they are provided only for an individual child but not available across-the-board in the State's foster care payment rate standard or structure.

A State has the discretion to negotiate an Adoption Assistance Agreement that automatically allows for adjustments to the adoption assistance payment when there is an increase or decrease in the across-the-board foster care board rate. A State also may renegotiate an Adoption Assistance Agreement if the adoptive parent(s) request an increase in payment due to a change in their circumstance and a higher foster care rate would have been paid on behalf of the child if the child had been in a foster family home.

The use of a means test is prohibited in the process of the State selecting suitable adoptive parent(s), or determining the amount of the adoption assistance payment.

After the Adoption Assistance Agreement is signed, the adoptive parent(s) are free to make decisions about expenditures on behalf of the child without further agency approval or oversight. The parent(s) can spend the title IV-E adoption assistance benefit in any way they see fit to incorporate the child into their lives. Since there is no itemized list of approved expenditures for adoption assistance, the State cannot require an accounting for the expenditures.

Title IV-E does not prohibit concurrent receipt of title IV-E adoption assistance and other Federal benefits and does not require that the title IV-E adoption assistance be reduced by the amount of assistance received from other Federal benefits. These other benefits may be considered in negotiation of the title IV-E Adoption Assistance Agreement, but the State must take into consideration the circumstances of the adoptive parent(s) and the needs of the child, and the adoptive parent(s) must concur with the negotiated amount of assistance.

For interstate adoptions, the placing State is responsible for setting the title IV-E adoption assistance payment based on its foster care rate structure. If the placing/paying State's law or policy allows flexibility to pay amounts based upon the foster care board rate in the State in which the child is placed for adoption, this practice would be allowable under title IV-E since the statutory requirement in section 473(a)(3) of the Act would be met.

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Questions Specific to Adoption Assistance Rates

(A) Does the State limit title IV-E adoption assistance to no more than a child would have received if s/he had been in a foster family home?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Does the State determine the amount of title IV-E adoption assistance through a negotiation process with the adoptive parent(s)?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(C) Does the State use a means test with respect to the adoptive parent(s) to determine the amount of the title IV-E adoption assistance payment?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(D) Does the State require an accounting from the adoptive parent(s) for the actual expenditures from the title IV-E adoption assistance payment?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(E) Does the State allow the amount of the title IV-E adoption assistance payment to include special allowances that may be available on behalf of a specific child in foster care, but are not available across-the-board?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(F) Does the State consider requests from adoptive parent(s) to renegotiate the title IV-E Adoption Assistance Agreement for an increase in a child's title IV-E adoption assistance payment if the child is not receiving the maximum assistance allowed?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(continued on next page)



(G) In negotiating the title IV-E Adoption Assistance Agreement, does the State automatically reduce the amount of the title IV-E adoption assistance offered to the family dollar-for-dollar by the amount a child receives as an SSI benefit, or some other Federal benefit?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

(H) After the title IV-E Adoption Assistance Agreement is signed and in effect, does the State automatically reduce the amount of title IV-E adoption assistance for any reason, (such as, an increase in the adoptive parent's income, the child's receipt of another public benefit, child's receipt of a trust fund, the adoptive child's income from a job, etc.) other than an across-the-board reduction in the State's foster care board rates, without the concurrence of the adoptive parent(s)?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Adoption Assistance Rates:

Sections 473(a)(1)(B)(ii), and 473(a)(3)-(4) of the Social Security Act

45 CFR 1356.40(c)

Child Welfare Policy Manual, Sections 8.2D.4

(continued on next page)



Section VIII: Medicaid Eligibility

Any child who is eligible for title IV-E adoption assistance under a title IV-E Adoption Assistance Agreement is categorically eligible to receive title XIX Medicaid in his/her State of residence consistent with the terms of the State's title XIX plan.

Questions Specific to Medicaid Eligibility

(A) Does the State confer automatic Medicaid eligibility to a child who is eligible for title IV-E adoption assistance?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Does your State provide Medicaid coverage for a child who is adopted under a title IV-E Adoption Assistance Agreement in another State if the adoptive parent(s) and the child move to your State?

YES

NO

NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(C) Does the State require the adoptive parent(s) to provide private health insurance in lieu of or in addition to Medicaid?

YES

NO

NEEDS CLARIFICATION

If yes, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

Action(s) needed to assure the State's program meets Federal requirements:

(continued on next page)



Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Medicaid Eligibility:

Section 471(a)(21) and 473(b)(1) of the Social Security Act

45 CFR 1356.40(b)(3)

Child Welfare Policy Manual, Section 8.2B.8

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Section IX: Fair Hearings

Federal statute and regulations require that the State provide an opportunity for a fair hearing to any individual whose claim for assistance is denied or not acted upon with reasonable promptness. A fair hearing opportunity applies to a denial, suspension, reduction, discontinuance, or termination of assistance. Some allegations that constitute grounds for a fair hearing under the title IV-E adoption assistance program include, but are not limited to:

- relevant facts regarding the child were known by the State agency or child-placing agency and not presented to the adoptive parent(s) prior to the finalization of the adoption;
- denial of assistance based upon a means test of the adoptive parent(s);
- adoptive parent(s) disagree with the determination by the State that a child is ineligible for adoption assistance;
- failure by the State agency to advise potential adoptive parent(s) about the availability of adoption assistance for children in the State foster care system;
- decrease in the amount of adoption assistance without the concurrence of the adoptive parent(s);
- denial of a request for a change in payment level due to a change in the adoptive parent(s) circumstances; and
- failure of the State agency to complete the required paperwork prior to the finalization of the adoption.

In situations where the final fair hearing decision is favorable to the adoptive parent(s), the State agency can reverse the earlier decision to deny benefits under title IV-E. If the child meets all the eligibility criteria, the State may enter into a title IV-E Adoption Assistance Agreement with the adoptive parent(s) and Federal Financial Participation (FFP) is available, beginning with the earliest date of the child's eligibility (e.g., the date of the child's placement in the adoptive home or finalization of the adoption) in accordance with Federal and State statutes, regulations and policies.

The right to a fair hearing is a procedural protection that provides due process for individuals who claim that they have been wrongly denied benefits. This procedural protection, however, cannot confer title IV-E benefits without legal support or basis. Accordingly, FFP is available only in those situations in which a fair hearing determines that the child was wrongly denied benefits and the child meets all Federal eligibility requirements. Thus, if a fair hearing officer decides that a child should have received adoption assistance, but, in fact, the child does not meet all the Federal eligibility criteria, the State cannot claim FFP under title IV-E for the child.

The State is required to inform prospective adoptive parent(s) in writing at the time of the application, and at the time of any action affecting their claim, of the right to a fair hearing; the method by which they may obtain a hearing; and that they may be represented by an authorized representative, such as legal counsel, relative, friend, or other spokesman, or may represent themselves.

The fair hearing process must be conducted by an impartial official(s) or designee of the agency. The hearing official or designee cannot have been directly involved in the initial determination of the action in question (45 CFR 205.10(a)(9)).

(continued on next page)



Questions Specific to Fair Hearings

(A) Does the State require that adoptive parent(s) be informed in writing at the time of their application and at the time of any action affecting their adoption assistance payments for title IV-E adoption assistance of their right to a fair hearing and the process for requesting the hearing?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(B) Does the State offer an opportunity for a fair hearing to any individual whose claim for assistance under title IV-E adoption assistance is denied or not acted upon with reasonable promptness?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(C) Does the State offer an opportunity for a fair hearing if title IV-E adoption assistance is terminated or suspended without the concurrence of the adoptive parent(s)?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(D) Does the State require that adoptive parent(s) be informed in writing that they may be represented at the fair hearing by legal counsel or other spokesperson?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

(E) Is the fair hearing process conducted by an impartial official, or designee of the agency who was not involved in the initial determination of the action in question?

YES NO NEEDS CLARIFICATION

If no, this is inconsistent with Federal requirements.

Steps to address areas needing clarification:

List any areas noted above that are inconsistent with Federal requirements:

(continued on next page)



Action(s) needed to assure the State's program meets Federal requirements:

Citations for State laws, administrative rules, policies, etc., used for review of this requirement:

Legal and Related References for Fair Hearings:

Section 471(a)(12) of the Social Security Act

45 CFR 1355.30(p)(2) and 45 CFR 205.10

Child Welfare Policy Manual, Sections 8.4G (1-2) and (4-5)



Please see section IX on Fair Hearings. A favorable fair hearing decision may allow the State to determine after the finalization of the adoption that a child met the special needs criteria prior to finalization.

See sections III and IV for additional requirements related to criminal background checks and immigration status that must be met for a family to receive title IV-E adoption assistance.

Additional eligibility criteria include the three-part special needs determination, criminal records clearances for the prospective adoptive parents and child abuse and neglect registry checks of the prospective parents and any other adult living in the home, and a determination that the child and adoptive parents, if not U.S. citizens, meet the qualified alien provisions of PRWORA.

For the purpose of title IV-E adoption assistance eligibility, a specified relative is defined as any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child. This includes great-great-grandparents and first cousins once removed (children of first cousins). (45 CFR 233.90(c)(1)(v))

A constructive removal is a legal or paper removal of a child who is not living with the specified relative from whom s/he is being removed at the time of removal. See 45 CFR 1356.21(k) for further guidance on this topic.

Prior to that date, the State had to determine that the child continued to be eligible for AFDC at the time of the initiation of adoption proceedings. This requirement was removed by the Deficit Reduction Act of 2005 (P.L. 109-171).

For children removed from their homes before January 23, 2001 (the date of ACYF-PA-01-01 which established that the timing for the contrary to the welfare determination for title IV-E adoption assistance is the same as for title IV-E foster care), the contrary to the welfare determination is allowed in any court order up to the time of the initiation of adoption proceedings. For children removed on or after that date (1/23/01), the judicial determination must be made in the first court order that sanctions the child's removal from the home.

As noted in the discussion on the previous page, a voluntary relinquishment may be considered a judicial removal if there is a petition to the court to remove the child from his/her home within six months of the date the child last lived with the specified relative from whom s/he was removed and there is a subsequent judicial determination that to remain in the home would be contrary to the child's welfare.

States with an AFDC plan, as in effect on July 16, 1996, that included the "unemployed parent" option, had the opportunity to amend its AFDC plan to expand its definition of "unemployed parent" to include hours of work, dollar amounts earned, and family size in establishing the reasonable standard of unemployment. See 45 CFR 233.101(a)(1) for further guidance.

Please note exception for favorable fair hearing decisions.





ACF Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
	1. Log No: ACYF-CB-IM-01-08	2. Issuance Date: November 06, 2001
	3. Originating Office: Administration for Children and Families	
	4. Key Words: Adoption Assistance Eligibility for Children who are Voluntarily Relinquished to Private, Nonprofit Agencies (Amends Policy on Voluntary Relinquishments in ACYF-CB-PA-01-01)	

INFORMATION MEMORANDUM

TO: State Agencies Administering title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

SUBJECT: Title IV-E Adoption Assistance for Children who are Voluntarily Relinquished to Private, Nonprofit Agencies **(Amends Policy on Children who are Voluntarily Relinquished to a Private, Nonprofit Agency set forth in ACYF-CB-PA-01-01)**

LEGAL AND RELATED REFERENCES:

Sections 472(a)(2), 472(c)(2) and 473 of the Social Security Act; and sections 8.2B.10 and 8.2B.13 of the Administration for Children and Families (ACF) Child Welfare Policy Manual. (The policies in these sections of the ACF Child Welfare Policy Manual were set forth in ACYF-CB-PA-01-01 and subsequently incorporated into the policy manual.)

PURPOSE:

The purpose of this Information Memorandum is to announce an amendment to the policy on voluntary relinquishments to private, nonprofit agencies that was set forth in ACYF-CB-PA-01-01. With this amendment, title IV-E adoption assistance is available in certain circumstances for otherwise eligible children who are voluntarily relinquished to a private, nonprofit agency.

INFORMATION:

The policy on voluntarily relinquishments applies the title IV-E adoption assistance eligibility criteria to all children without regard to whether a child is relinquished to a public agency or to a private, nonprofit agency. The attached, revised sections of the ACF Child Welfare Policy Manual convey the amended policy regarding the eligibility of children for title IV-E adoption assistance when they are voluntarily relinquished. Accordingly, Section 8.2B.10 has been revised and no longer restricts the responsibility for placement and care of voluntarily relinquished children to the State agency. Section 8.2B.13 has been revised to allow eligibility in certain circumstances for otherwise eligible children who are voluntarily relinquished to a private, nonprofit agency.

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EFFECTIVE DATE:

We previously permitted otherwise eligible children who were voluntarily relinquished to private, nonprofit agencies to be eligible for title IV-E adoption assistance in certain circumstances. That policy should be followed as having been continuously in effect with no break.¹ For any child who was adopted without assistance after February 18, 2000 that the State determines would have been eligible in accordance with the policy as stated in Section 8.2B.13 of the Child Welfare Policy Manual, the State must enter into an Adoption Assistance Agreement with the family. The State must provide assistance in accordance with the agreement retroactive to the date as of which the child would have been eligible and in the adoptive home, consistent with Federal, State and local laws. Federal financial participation is available from that date for eligible children.


INQUIRIES TO: Regional HUB Directors/Regional Administrators, Regions I-X

/s/
Wade F. Horn, Ph.D.
Assistant Secretary
for Children and Families

Attachmen

¹This policy was allowed in ACYF-PIQ-87-05 and remained in effect until the issuance of ACYF-CB-IM-00-02 which withdrew that policy issuance. The new policy was discussed in ACYF-CB-PA-01-01, dated January 23, 2001.



 Administration for Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	1. Log No: ACYF-CB-IM-06-02	2. Issuance Date: June 9, 2006
	3. Originating Office: Children's Bureau	
	4. Key Words: Deficit Reduction Act, Rosales, Foster Care, Candidates, Administrative Costs, Adoption Assistance	

INFORMATION MEMORANDUM

To: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-B and Title IV-E of the Social Security Act, Indian Tribes and Indian Tribal Organizations

Subject: New Legislation - The Deficit Reduction Act of 2005

References:

Title VII of the Deficit Reduction Act of 2005; Titles IV-B and IV-E of the Social Security Act; 70 FR 4803; ACYF-CB-PI-02-08 superseded; ACYF-CB-IM-04-03.

Purpose:

The purpose of this Information Memorandum is to inform States and Indian Tribes of the enactment of the Deficit Reduction Act of 2005, provide basic information about the child welfare provisions in the law and discuss its implications for States and Indian Tribes.

Information:

The President signed the Deficit Reduction Act of 2005, Public Law 109-171 into law on February 8, 2006. The law amends many programs under the Social Security Act (the Act), including title IV-B subparts 1 and 2, the Court Improvement Program in subpart 2 and the title IV-E Foster Care Maintenance Payments and Adoption Assistance Programs. Please refer to the attached excerpt of law for the amendments. A summary of the amendments to titles IV-B and IV-E follows:

Court Improvement. The law authorizes and appropriates funds for two new grants under the Court Improvement Program in title IV-B, section 438 of the Act.¹ The highest State court in a State with an approved title IV-E plan is eligible to apply for either or both of the new grants for each grant purpose. The new grants are for the purposes of:

¹ The original court improvement grants are authorized through Fiscal Year 2006 (see sections 436(b)(2) and 437(b)(2) of the Act) and have not been reauthorized by this legislation.

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- Ensuring that the needs of children are met in a timely and complete manner through improved case tracking and analysis of child welfare cases, and
- Training judges, attorneys and other legal personnel in child welfare cases and conducting cross-training with child welfare agency staff and contractors.

The new grants are authorized for \$10 million each and funded for Federal Fiscal Years 2006 through 2010. State allocations include \$85,000 for each State, plus a share of the remaining appropriation based on the State's population of persons under age 21.

Collaboration with courts. The law adds a title IV-B plan requirement to section 422 of the Act for the State or Tribe to demonstrate substantial, ongoing and meaningful collaboration with State courts in the development and implementation of its title IV-B and title IV-E plan, child and family services review and other program improvement plans required by section 1123A of the Act (section 422(b)(15) of the Act).

Public Access to Court Proceedings. The law adds section 471(c) to title IV-E of the Act to provide States with the flexibility to allow public access to court proceedings that determine child abuse or neglect and other court hearings held pursuant to titles IV-B and title IV-E, except that the State shall, at a minimum, ensure the safety and well-being of the child, parents and family in developing “open court” policies.

Promoting Safe and Stable Families (PSSF). The law authorizes (but does not separately appropriate) \$345 million in mandatory funds for the PSSF program under title IV-B, subpart 2 of the Act for Fiscal Year (FY) 2006, which is an increase in the authorization by \$40 million (section 436 of the Act).

Administrative costs for children in unallowable facilities and relative homes. The law adds section 472(i) to title IV-E of the Act to allow a State to claim Federal Financial Participation (FFP) for allowable administrative expenses for a child otherwise eligible for title IV-E in limited circumstances. The law allows the State to claim FFP for administrative costs:

- For the lesser of 12 months or the average length of time it takes the State to license or approve the home when an otherwise title IV-E eligible child is placed in the home of a relative with an application pending for a foster family home license or approval, or
- For one calendar month for an otherwise title IV-E eligible child transitioning from an unlicensed or unapproved facility to a licensed or approved foster family home or child care institution.

Administrative costs for title IV-E foster care candidates. New section 472(i) also permits a State to claim Federal reimbursement for allowable administrative costs for a potentially title IV-E eligible child who is at imminent risk of removal from the home if:

- Reasonable efforts are being made to prevent the removal of the child from the home or, if necessary, to pursue the removal, and

(continued on next page)



- The State agency has made, at least every six months, a determination or redetermination that the child remains at imminent risk of removal from the home.

Clarification of Foster Care Maintenance Payments Eligibility Criteria. The law revises section 472(a) of the Act to clarify that for title IV-E foster care eligibility a child must be eligible for Aid to Families with Dependent Children (AFDC) in the specified relative's home from which he or she is removed. The amendment to the Act corresponds with the Department of Health and Human Services' long-standing interpretation that in order to be eligible under title IV-E, a child must be eligible for AFDC (as it was in effect in the State on July 16, 1996) in the specified relative's home from which the child is removed. If the child is not eligible in the specified relative's home from which the child is removed, the child will be ineligible for title IV-E for the duration of the child's foster care episode.

Adoption Assistance Eligibility Criteria. The law revises section 473(a)(2) of the Act to clarify that for title IV-E adoption assistance eligibility, a child must meet the AFDC criteria in the specified relative's home from which he or she is removed.² Further, the law simplifies an aspect of adoption assistance eligibility by requiring that a child meet the AFDC eligibility criteria (as they existed in the State's title IV-A plan on July 16, 1996) at the time of the child's removal from a specified relative only. A State is no longer required to determine the child's AFDC eligibility at the time of the initiation of adoption proceedings.

Implications for States of the title IV-B and IV-E amendments:

Court Improvement. Instructions regarding the new court improvement grants will be provided under a separate program instruction.

Effect on States operating under the Rosales v. Thompson decision. The law, as amended, governs all States including those in the Ninth Circuit. All title IV-B/IV-E State agencies must now determine a child's AFDC eligibility based on the specified relative's home from which the child was removed and not based on the criteria stated in the *Rosales v. Thompson* decision. Further, the law confirms that the children who were determined eligible only because of the *Rosales* decision are not eligible for title IV-E foster care maintenance payments.

For children in the Ninth Circuit who were determined eligible only because of the *Rosales* decision on or prior to February 8, 2006, we will permit eligibility for title IV-E foster care maintenance payments to continue through the month when the child's next annual redetermination of eligibility is due.³ After the month of redetermination, States will no longer be eligible to receive title IV-E foster care maintenance payments on behalf of children determined eligible only because of the *Rosales* decision, in accordance with section 472(a) of the Act as amended.

²The law makes no substantive changes for children eligible under the non-AFDC eligibility criteria for the adoption assistance program (i.e., for a child with special needs who is either eligible for Supplemental Security Income, a child of a minor parent receiving title IV-E foster care maintenance payments, or has received title IV-E adoption assistance previously (see sections 473(a)(2)(A)(i)(II), 473(a)(2)(A)(i)(III) and 473(a)(2)(C) of the Act)).

³See Child Welfare Policy Manual Section 8.3A.10 QA#2 regarding redeterminations of a child's eligibility for AFDC.

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States need not alter their redetermination schedule. However, if redeterminations are not held timely (i.e., at least every 12 months) for children determined eligible pursuant to *Rosales*, the child will not be eligible for title IV-E foster care maintenance payments from the month subsequent to the month when the last redetermination was due.

A child cannot be newly eligible for title IV-E foster care maintenance payments pursuant to the *Rosales* decision after February 8, 2006.⁴

Effect on title IV-E administrative cost claims for candidates for foster care and children placed in unlicensed relative foster family homes. The law supersedes ACYF-CB-PI-02-08, which permitted States to claim FFP for the administrative costs associated with an otherwise title IV-E eligible child placed in an unlicensed foster family home.

For a child placed with an unlicensed or unapproved relative caregiver after February 8, 2006, the State can claim allowable administrative costs for a child placed with an unlicensed or unapproved relative only if all criteria in section 472(i) of the Act are met.⁵

Effect on simplified title IV-E adoption assistance eligibility. A child whose adoption was finalized on or after October 1, 2005, and who meets the criteria in section 473(a)(2)(A) of the Act as amended, is eligible for title IV-E adoption assistance.

The Regional Office staff will work with the States to ensure that title IV-E State plans and cost allocations plans are amended accordingly.

Inquiries To:

/s/

Joan E. Ohl
Commissioner
Administration on Children, Youth and Families

⁴ A child must meet the AFDC criteria pursuant to *Rosales* on or prior to February 8, 2006, but other eligibility factors (e.g., judicial determinations regarding reasonable efforts and placement in an approved or licensed foster family home or child care institution) may be met at a later date consistent with section 472(a) of the Act and 45 CFR 1355.20 and 1356.21.

⁵ Allowable costs are defined in statute at section 474 of the Act and 45 CFR 1356.

Attachment – Relevant excerpts from Public Law 109-171, The Deficit Reduction Act of 2005

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Subtitle D--Child Welfare

SEC. 7401. STRENGTHENING COURTS.

(a) COURT IMPROVEMENT GRANTS--

(1) IN GENERAL--Section 438(a) (42 U.S.C. 629h(a)) is amended--

(A) by striking “and” at the end of paragraph (1);

(B) by striking the period at the end of paragraph

(2) and inserting a semicolon; and

(C) by adding at the end the following:

“(3) to ensure that the safety, permanence, and well-being needs of children are met in a timely and complete manner; and

“(4) to provide for the training of judges, attorneys and other legal personnel in child welfare cases.”

(2) APPLICATIONS--Section 438(b) (42 U.S.C. 629h(b)) is amended to read as follows:

“(b) APPLICATIONS--

“(1) IN GENERAL--In order to be eligible to receive a grant under this section, a highest State court shall submit to the Secretary an application at such time, in such form, and including such information and assurances as the Secretary may require, including--

“(A) in the case of a grant for the purpose described in subsection (a)(3), a description of how courts and child welfare agencies on the local and State levels will collaborate and jointly plan for the collection and sharing of all relevant data and information to demonstrate how improved case tracking and analysis of child abuse and neglect cases will produce safe and timely permanency decisions;

“(B) in the case of a grant for the purpose described in subsection (a)(4), a demonstration that a portion of the grant will be used for cross-training initiatives that are jointly planned and executed with the State agency or in subsection (a), a demonstration of meaningful and ongoing collaboration among the courts in the State, the State agency or any other agency under contract with the State who is responsible for administering the State program under part B or E, and, where applicable, Indian tribes.

“(2) SEPARATE APPLICATIONS--A highest State court desiring grants under this section for 2 or more purposes shall submit separate applications for the following grants:

“(A) A grant for the purposes described in paragraphs (1) and (2) of subsection (a).

“(B) A grant for the purpose described in subsection (a)(3).

“(C) A grant for the purpose described in subsection (a)(4).”

(3) ALLOTMENTS--Section 438(c) (42 U.S.C. 429h(c)) is amended--

(A) in paragraph (1)--

(i) by inserting “of this section for a grant described in subsection (b)(2)(A) of this section” after “subsection (b)”; and

(ii) by striking “paragraph (2) of this subsection” and inserting subparagraph (B) of this paragraph”; and

(B) in paragraph (2)--

(i) by striking “this paragraph” and inserting “this subparagraph”;

(ii) by striking “paragraph (1) of this subsection” and inserting “subparagraph (A) of this paragraph”; and

(iii) by inserting “for such a grant” after “subsection (b)”; and

(C) by redesignating and indenting paragraphs (1) and

(2) as subparagraphs (A) and (B), respectively;

(D) by inserting before and above such subparagraph (A) the following:

“(1) GRANTS TO ASSESS AND IMPROVE HANDLING OF COURT PROCEEDINGS RELATING TO FOSTER CARE AND ADOPTION--”; and

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(E) by adding at the end the following:

“(2) GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING--

“(A) IN GENERAL--Each highest State court which has an application approved under subsection (b) of this section for a grant referred to in subparagraph (B) or (C) of subsection (b)(2) shall be entitled to payment, for each of fiscal years 2006 through 2010, from the amount made available under whichever of paragraph (1) or (2) of subsection (e) applies with respect to the grant, of an amount equal to the sum of \$85,000 plus the amount described in subparagraph (B) of this paragraph for the fiscal year with respect to the grant.

“(B) FORMULA--The amount described in this subparagraph for any fiscal year with respect to a grant referred paragraph) as the number of individuals n the State who have not attained 21 years of age bears to the total number of such individuals in all States the highest State courts of which have approved applications under subsection (b) for such a grant.”

(4) FUNDING--Section 438 (42 U.S.C. 629h) is amended by adding at the end the following:

“(e) FUNDING FOR GRANTS FOR IMPROVED DATA COLLECTION AND TRAINING--Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary, for each of fiscal years 2006 through 2010--

“(1) \$10,000,000 for grants referred to in subsection (b)(2)(B); and

“(2) \$10,000,000 for grants referred to in subsection (b)(2)(C).”

(b) REQUIREMENT TO DEMONSTRATE MEANINGFUL COLLABORATION BETWEEN COURTS AND AGENCIES IN CHILD WELFARE SERVICES

PROGRAMS--Section 422(b) (42 U.S.C. 622(b)) is amended--

(1) by striking “and” at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting “; and”; and

(3) by adding at the end the following:

“(15) demonstrate substantial, ongoing, and meaningful collaboration with State courts in the development and implementation of the State plan under subpart 1, the State plan approved under subpart 2, and the State plan approved under part E, and in the development and implementation of any program improvement plan required under section 1123A.”

(c) USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS--Section 471 (42 U.S.C. 671) is amended--

(1) in subsection (a)(8), by inserting “subject to subsection (c),” after “(8)”; and

(2) by adding at the end the following:

“(c) USE OF CHILD WELFARE RECORDS IN STATE COURT PROCEEDINGS--Subsection (a)(8) shall not be construed to limit the flexibility of a State in determining State policies relating to public access to court proceedings to determine child abuse and neglect or other court hearings held pursuant to part B or this part, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and family.”

SEC. 7402. FUNDING OF SAFE AND STABLE FAMILIES PROGRAMS.

Section 436(a) (42 U.S.C. 629f(a)) is amended to read as follows:

“(a) AUTHORIZATION--In addition to any amount otherwise made available to carry out this subpart, there are authorized to be appropriated to carry out this subpart \$345,000,000 for fiscal year 2006.

Notwithstanding the preceding sentence, the total amount authorized to be so appropriated for fiscal year 2006 under this subsection and under this subsection (as in effect before the date of the enactment of the Deficit Reduction Act of 2005) is \$345,000,000.”

Sect on 472 (42 U.S.C. 672) s amended by inserting after subset on (h) the following:

“(i) ADMINISTRATIVE COSTS ASSOCIATED WITH OTHERWISE ELIGIBLE CHILDREN NOT IN LICENSED FOSTER CARE SETTINGS--

Expenditures by a State that would be considered administrative expenditures for purposes of section 474(a)(3) if made with respect to a child who was residing in a foster family home or child-care institution shall be so considered with respect to a child not residing in such a home or institution--

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“(1) in the case of a child who has been removed in accordance with subsection (a) of this section from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), only for expenditures--

“(A) with respect to a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative and an application is pending for licensing or approval of the home as a foster family home; or

“(B) with respect to a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State; and

“(2) in the case of any other child who is potentially eligible for benefits under a State plan approved under this part and at imminent risk of removal from the home, only if--

“(A) reasonable efforts are being made in accordance with section 471(a)(15) to prevent the need for, or if necessary to pursue, removal of the child from the home; and

“(B) the State agency has made, not less often than every 6 months, a determination (or redetermination) as to whether the child remains at imminent risk of removal from the home.”

(b) CONFORMING AMENDMENT--Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended by inserting “subject to section 472(i)” before “an amount equal to”.

SEC. 7404. CLARIFICATION OF ELIGIBILITY FOR FOSTER CARE MAINTENANCE PAYMENTS AND ADOPTION ASSISTANCE.

(a) FOSTER CARE MAINTENANCE PAYMENTS--Section 472(a) (42U.S.C. 672(a)) is amended to read as follows:

“(a) IN GENERAL--

“(1) ELIGIBILITY--Each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child who has been removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) into foster care if--

“(A) the removal and foster care placement met, and the placement continues to meet, the requirements of paragraph (2); and

“(A) the removal and foster care placement are in accordance with--

“(i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or

“(ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 471(a)(15) for a child have been made;

“(B) the child's placement and care are the responsibility of--

“(i) the State agency administering the State plan approved under section 471; or

“(ii) any other public agency with which the State agency administering or supervising the administration of the State plan has made an agreement which is in effect; and

“(C) the child has been placed in a foster family home or child-care institution.

“(3) AFDC ELIGIBILITY REQUIREMENT--

“(A) IN GENERAL--A child in the home referred to in paragraph (1) would have met the AFDC eligibility requirement of this paragraph if the child--

“(i) would have received aid under the State plan approved under section 402 (as in effect on July 16, 1996) in the home, in or for the month in which the agreement was entered into or court proceedings leading to the determination referred to in paragraph (2)(A)(ii) of this subsection were initiated; or

“(ii)(I) would have received the aid in the home, in or for the month referred to in clause (i), if application had been made therefore; or “(II) had been living in the home within 6 months before the month in which the agreement was entered into or the proceedings were initiated, and would have received the aid in or for such month, if, in such month, the child had been living in the home with the relative referred to in paragraph (1) and application for the aid had been made.

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“(B) RESOURCES DETERMINATION--For purposes of subparagraph (A), in determining whether a child would have received aid under a State plan approved under section 402 (as in effect on July 16, 1996), a child whose resources (determined pursuant to section 402(a)(7)(B), as so in effect) have a combined value of not more than \$10,000 shall be considered a child whose resources have a combined value of not more than \$1,000 (or such lower amount as the State may determine for purposes of section 402(a)(7)(B)).

“(4) ELIGIBILITY OF CERTAIN ALIEN CHILDREN--Subject to title IV of the Personal Responsibility and Work Opportunity described in paragraph (2)(A)() was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification.”

(b) ADOPTION ASSISTANCE--Section 473(a)(2) (42 U.S.C. 673(a)(2)) is amended to read as follows:

“(2)(A) For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child--

“(i)(I)(aa) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

“(bb) met the requirements of section 472(a)(3) with respect to the home referred to in item (aa) of this subclause;

“(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

“(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

“(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

“(B) Section 472(a)(4) shall apply for purposes of subparagraph

(A) of this paragraph, in any case in which the child is an alien described in such section.

“(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child--

“(i) meets the requirements of subparagraph (A)(ii);

“(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

“(iii) is available for adoption because--

“(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

“(II) the child's adoptive parents have died; and

“(iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if--

“(I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

“(II) the prior adoption were treated as never having occurred.”

Section 1633 (42 U.S.C. 1383b) is amended by adding at the end the following:

“(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

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- “(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review--
- “(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006;
 - “(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and
 - “(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or thereafter.
- “(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.”

SEC. 7502. PAYMENT OF CERTAIN LUMP SUM BENEFITS IN INSTALLMENTS UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

- (a) IN GENERAL--Section 1631(a)(10)(A)(i) (42 U.S.C. 1383(a)(10)(A)(i)) is amended by striking “12” and inserting “3”.
- (b) EFFECTIVE DATE--The amendment made by subsection (a) shall take effect 3 months after the date of the enactment of this Act.





Social Security Act – Section 673 **ADOPTION ASSISTANCE PROGRAM**

From Social Security Online- Compilation of the Social Security Laws
Retrieved from http://www.ssa.gov/OP_Home/ssact/title04/0473.htm/

August 22, 2008

Sec. 473. [42 U.S.C. 673] (a)(1)(A) Each State having a plan approved under this part shall enter into Adoption Assistance Agreements (as defined in section 475(3)) with the adoptive parents of children with special needs.

(B) Under any Adoption Assistance Agreement entered into by a State with parents who adopt a child with special needs, the State—

(i) shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child, directly through the State agency or through another public or nonprofit private agency, in amounts determined under paragraph (3), and

(ii) in any case where the child meets the requirements of paragraph (2), may make adoption assistance payments to such parents, directly through the State agency or through another public or nonprofit private agency, in amounts so determined.

(2)(A)^[334] For purposes of paragraph (1)(B)(ii), a child meets the requirements of this paragraph if the child—

(i)(I)(aa) was removed from the home of a relative specified in section 406(a) (as in effect on July 16, 1996) and placed in foster care in accordance with a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or section 403, as such section was in effect on July 16, 1996), or in accordance with a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child; and

(bb) met the requirements of section 472(a)(3) with respect to the home referred to in item (aa) of this subclause

(II) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits; or

(III) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the minor parent of the child as provided in section 475(4)(B); and

(ii) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

(B) Section 472(a)(4) shall apply for purposes of subparagraph (A) of this paragraph, in any case in which the child is an alien described in such section.

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(C) A child shall be treated as meeting the requirements of this paragraph for the purpose of paragraph (1)(B)(ii) if the child—

(i) meets the requirements of subparagraph (A)(ii);

(ii) was determined eligible for adoption assistance payments under this part with respect to a prior adoption;

(iii) is available for adoption because—

(I) the prior adoption has been dissolved, and the parental rights of the adoptive parents have been terminated; or

(II) the child's adoptive parents have died; and

(iv) fails to meet the requirements of subparagraph (A) but would meet such requirements if—

(I) the child were treated as if the child were in the same financial and other circumstances the child was in the last time the child was determined eligible for adoption assistance payments under this part; and

(II) the prior adoption were treated as never having occurred.

(3) The amount of the payments to be made in any case under clauses (i) and (ii) of paragraph (1)(B) shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the Adoption Assistance Agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment made under clause (ii) of paragraph (1)(B) exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4) Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

(5) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption in accordance with applicable State and local law shall be eligible for such payments, during the period of the

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placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(6)(A) For purposes of paragraph (1)(B)(i), the term “nonrecurring adoption expenses” means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs and which are not incurred in violation of State or Federal law.

(B) A State's payment of nonrecurring adoption expenses under an Adoption Assistance Agreement shall be treated as an expenditure made for the proper and efficient administration of the State plan for purposes of section 474(a)(3)(E).

(b)(1) For purposes of title XIX, any child who is described in paragraph (3) is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect) in the State where such child resides.

(2) For purposes of title XX, any child who is described in paragraph (3) is deemed to be a minor child in a needy family under a State program funded under part A of this title and deemed to be a recipient of assistance under such part.

(3) A child described in this paragraph is any child—

(A)(i) who is a child described in subsection (a)(2), and

(ii) with respect to whom an Adoption Assistance Agreement is in effect under this section (whether or not adoption assistance payments are provided under the agreement or are being made under this section), including any such child who has been placed for adoption in accordance with applicable State and local law (whether or not an interlocutory or other judicial decree of adoption has been issued), or

(B) with respect to whom foster care maintenance payments are being made under section 472.

(4) For purposes of paragraphs (1) and (2), a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to the child's minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.

(c) For purposes of this section, a child shall not be considered a child with special needs unless—

(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because

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of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under title XIX, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under title XIX.

[334] P.L. 109-171, §7404(b), amended paragraph (2) in its entirety, effective as if enacted on October 1, 2005. For paragraph (2) as it formerly read, see Vol. II, Appendix J, Superseded Provisions, P.L. 109-171.



The Dance of Negotiation

By Sharen E. Ford, PhD

Manager, Permanency Unit

Colorado Department of Human Services, Division of Child Welfare Services.

Colorado's State Adoption Assistance Program became available in 1976 and, in 1980, the federal Title IV-E Adoption Program was added. Both of these programs have evolved over time.

This evolution "steps" has been affected by three major components: (1) Staff's increased knowledge about adoption assistance (2) families increased knowledge and advocacy about adoption assistance and (3) funding and types of resources available. The dance of negotiation involves each of these characteristics.

Imagine you are watching the movie *Shall We Dance* with Richard Gere and Susan Sarandon. They are captivating as they glide across the dance floor. He never steps on her feet and she follows his lead every step of the way. Why this work so well is because he's practiced and practiced and learned the art of waltzing. Negotiation is about learning the "art" of waltzing.

The first step in the negotiation process is to educate agency staff about the fine distinctions of the Adoption Assistance Program and enabling staff to negotiate with families. Jennifer Lopez was the dance instructor in *Shall We Dance*, and she taught others the skill of dancing. Likewise, negotiating an Adoption Assistance Agreement can be likened to a waltz—each person taking a position and coming together to achieve a common goal. When waltzing, the common goal is to move in unison, while in negotiating an Adoption Assistance Agreement the goal is to meet the child's needs with both parties coming to a common ground. These agreements should not be based on the "means" of the prospective adoptive family but on the "needs" of the child. "Means testing" is prohibited by federal law.

Being ready for the negotiation requires that we consider the key issues in the process.

Some of the issues that we must focus on are listed in the chart entitled, "Key Issues" (see next page).

As dance studios replace worn boards or damaged tiles (old policies/old thinking), the dance floor is so much easier to navigate. Studios advertise the lessons available to entice customers into the door. Families are our customers, and they come to us to help them navigate our system. As they become more skilled at navigating, their advocacy becomes more and more apparent.

The second step includes our duty to educate families about our system and learn from them what they need to support their adoptions. In doing this we should:

- provide families with information about the child and the child's special needs so the family can make an informed decision.
- provide families with a written copy of the adoption assistance policy.
- provide families with written information about the post adoption resources available to them and how to access them.
- provide families an opportunity to make an informed decision by meeting them more than once to discuss the need for adoption assistance.

Remember, we're dancing. If you only ask me to dance one time, what message are you sending me? If you did all the talking during the meeting, when did the parent have an opportunity to speak and share their information or ask questions?

One suggested negotiation format (see Model 1 below) is used by several large county departments in Colorado. However, several counties use a modified version of this format due to limited resources (see Model 2 below).

Note: Colorado is a state-supervised, county-administered system. There are 64 county departments of human/social services.

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The third step in the dance of negotiation is funding and knowing how it can be accessed. Agencies that share information with families about the limitations of the funds to provide adoption assistance are ahead of the game. Families want to understand the scope and philosophy of the state's program. Families deal with budgets every day. They deserve to hear the truth and the facts. When agencies share information with families, they are empowered to make decisions and to take action. There are a very limited number of families adopting nationally that are out to get all they can get. The average adoptive parent is reasonable about their request for assistance even when the child has multiple challenges. That's why it's important to have skilled staff negotiating with families.

Knowledge really is power. Adoptive families are their children's number one advocate. These individuals and families can become our allies. They can lobby their legislators for funds to increase services. As states prepare to move the 100,000 plus waiting children into their forever homes, they also will need to be more effective in negotiating Adoption Assistance Agreements. Just as we educate families about who our waiting children are, information needs to be shared about the resources that are necessary to support the adoptive families. Families can carry that message when agency staff can't. So, whether your dance is a waltz, tango, bop, or the cha cha, the goal is to come to a common ground that meets the needs of the child and the family. Shall we dance?

MODEL 1 NEGOTIATOR

1st Meeting	Negotiator (not the child or family's worker) presents agency's information about the child and gathers information from the family about the need for adoption assistance. The agency may or may not be prepared to make an initial offer.
2nd Meeting	Negotiator reviews information with family and provides the family with an opportunity to add updated information. The agency presents the Adoption Assistance Agreement and provides the family with copies for their review and signing.
3rd Meeting	Negotiations continue if the family is unwilling to sign the agreement and additional negotiation is needed. If agreement is not reached, the family's request is taken to the county director for review. Negotiations continue as needed.
Last Meeting	When the family signs the agreement, the last meeting is set 30 days prior to the finalization of the adoption, to give an opportunity for an update based on new information becoming available that might change the scope of the previous agreement.

MODEL 2 CHILD'S WORKER

1st Meeting	The child's worker shares information about the Adoption Assistance Program, the child, and documents their discussion with the family and presents the agency's offer. The family is given a copy of the Adoption Assistance Agreement for their review and signature.
2nd Meeting	Both parties use this time to address concerns and come to agreement. If agreement is reached, the family signs the documents. If the family is unwilling to sign the agreement, the worker and supervisor meet with the family.
3rd & Last Meeting	See Model 1.



— KEY ISSUES TO CONSIDER —		
Key Issues	Questions To Ask	Importance
<ul style="list-style-type: none"> ■ Know your agency. ■ Know your agency's policy. ■ Provide ongoing staff training. 	<ul style="list-style-type: none"> ■ Does your agency negotiate or does your agency offer families the same payment they received as a foster care provider, thus by passing the “negotiation” process? ■ Whose role is it to discuss adoption assistance with the family? ■ When does your agency share information about adoption assistance with prospective families. ■ Does your agency share information about adoption assistance with all providers, including kinship care providers? ■ How is that information shared—verbally or in writing? 	<ul style="list-style-type: none"> ■ Staff can only educate families if they have good information. ■ Staff is able to embrace clear direction and able to work with confidence within the boundaries of their agency's policies and procedures.
<ul style="list-style-type: none"> ■ Know the federal policy (Social Security Act, Section 473, and the Federal Child Welfare Policy Manual). 	<ul style="list-style-type: none"> ■ Do I understand the nuances of the federal policy enough to appropriately apply it in the case before me? ■ Do I understand why the child is or isn't determined Title IV-E eligible? ■ Why is it beneficial for a child to be determined Title IV-E eligible? ■ Do I understand policy regarding state funded adoption assistance? 	<ul style="list-style-type: none"> ■ In most states, at least 50% of the children placed for adoption are eligible for the Title IV-E Adoption Assistance. Section 473 clarifies several aspects of the Title IV-E Adoption Assistance Program. ■ Families often use these resources to point out areas of concerns that they have about the negotiation process.
<ul style="list-style-type: none"> ■ Know the child. ■ Regularly document and update the child/youth's assessment. ■ Know the child's needs. 	<ul style="list-style-type: none"> ■ What does the current care provider say about the child and their needs (behavior)? ■ What level of foster care is the child currently receiving? ■ Has the level of placement been reassessed in the last 6 months? If not, should it be; for example, 6 months prior to termination)? ■ What identified special needs does the child have? ■ Does the agency's record contain accurate and up-to-date supportive documentation about the child's special needs (i.e. a report from the child's therapist, educational or medical records, special reports like genetic testing)? 	<ul style="list-style-type: none"> ■ Knowing the child's special needs will assist you in providing clarity about the adoption assistance and how it can assist in meeting the child's needs in their adoptive placement. Giving the adoptive family an opportunity to give input about the child's needs demonstrates that everyone's information is valued and needed in order to have a fair process.
<ul style="list-style-type: none"> ■ Know the prospective adoptive family. ■ Know the family's needs. 	<ul style="list-style-type: none"> ■ What does the family's home assessment say about their ability to meet the child's needs? ■ What resources does the family voluntarily offer to assist in the care of the child? ■ Does the level of services provided by the family impact the negotiation process? 	<ul style="list-style-type: none"> ■ This information can be useful in assuring the family's circumstances are considered in developing a fair offer. ■ No means testing.

Ford, Sharen E. (2005). The dance of negotiation. *The Roundtable*, 19, 1. This article cannot be duplicated without permission from the National Resource Center for Special Needs Adoption, Spaulding for Children, a service of the Children's Bureau: nrc@nrcadoption.org — www.nrcadoption.org.





Title IV-E Adoption Assistance: References and Other Resources

References

Statutory, Regulatory and Policy Sources

- ☐ **Special Needs Determination**
 - Social Security Act §473(a)(2)(A)(ii) and §473(c) of the Act
 - Child Welfare Policy Manual (CWPM) 8.2B.11 (1-2)
- ☐ **Child Eligible through AFDC**
 - Social Security Act §473(a)(2)(A)(i)(I) of the Act
 - CWPM 8.2B (1-2); 8.2B.7(1) and (2); 8.2B.10 (1); 8.2B.13 (1)
- ☐ **Child Eligible through SSI**
 - §473(a)(2)(A)(i)(II) of the Act
 - CWPM 8.2B (1) and 8.2B.12 (1-2)
- ☐ **Child Eligible as Child of Minor Parent in Foster Care**
 - §473(a)(2)(A)(i)(III) and §473(b)(4) of the Act
 - CWPM 8.2B (1) and 8.2B.3 (1-2)
- ☐ **Child Eligible through Prior IV-E AA Eligibility**
 - §473(a)(2)(C) of the Act
 - CWPM 8.2A.1 (4); 8.2B (1) and 8.2B.4 (1-2)
- ☐ **Background Checks**
 - §471(a)(20) of the Act
 - CWPM 8.4F (1-25)
- ☐ **Adoption Assistant Agreement**
 - §473(a)(1)(A) and (B)(i) and §473(a)(3) and (4) of the Act
 - 45 CFR 1356.40(b) and (c)
 - CWPM 8.2A.1 (1-3) and 8.2A.2(1); 8.2D.4 (1-7) and 8.4D (1-2)
- ☐ **Termination of Adoption Assistance**
 - §473(a)(4) of the Act
 - CWPM 8.2B.2 (1); 8.2B.9 (1-2); 8.2D.2 (1); 8.2D.5 (1-3)
- ☐ **Nonrecurring Adoption Expenses**
 - §473(a)(1)(B)(i) and §473(a)(6) of the Act
 - 45 CFR 1356.41
 - CWPM 8.2D.3 (1-6)



- ☐ **Non-recurring Agreement**
 - §473(a)(1)(B)(i) of the Act
 - 45 CFR 1356.41
 - CWPM 8.2D.3(1)
- ☐ **Fair Hearings**
 - §471(a)(12) of the Act
 - 45 CFR 205.10
 - CWPM 8.4G (1-2) and (4-5)
- ☐ **Eligibility for Medicaid**
 - §471(a)(21) and §473(b)(1) of the Act
 - 45 CFR 1356.40(b)(3)
 - CWPM 8.2B.8(1)
- ☐ **Child's Immigration Status**
 - §473(a)(2)(B) of the Act
 - §403(c)(2)(F) of PRWORA
 - CWPM 8.4B (1), (5-7) and (9)
- ☐ **Interstate Adoptions**
 - 45 CFR 1356.40 (d) and (e)
 - CWPM 8.2A.1 (1-4); 8.2B.4 (2)
- ☐ **International Adoptions**
 - CWPM 8.2B.6(1)

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Langer, Dale. (2005). Wisconsin's foster care uniform rate setting tool for negotiating adoption assistance. *The Roundtable*, 19, 6, 11.

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U.S. Department of Health and Human Services, Office of Assistant Secretary for Planning and Evaluation (Jan. 2005). *Understanding Adoption Subsidies: An Analysis of AFCARS Data*. Washington, DC:

Web Sites

Child Welfare Information Gateway. Established by the U.S. Children's Bureau to provide access, information, and resources on all areas of child welfare to help protect children and strengthen families. www.childwelfare.gov

Children's Bureau. The Children's Bureau (CB) is one of six bureaus within the Administration on Children, Youth and Families, Administration for Children and Families, of the Department of Health and Human Services. As the oldest Federal agency for children, CB has primary responsibility for administering federal child welfare programs. The Children's Bureau was created by President Taft in 1912 to investigate and report on infant mortality, birth rates, orphanages, juvenile courts, and other social issues of that time. www.acf.hhs.gov/programs/cb/

National Center for Adoption Law and Policy. Created by the National Center for Adoption Law & Policy at Capital University Law School. The goal is to deliver a single online resource for child welfare and adoption law information. www.adoptionlawsite.org

National Resource Center for Adoption. Established by the U.S. Children's Bureau to assist States, Tribes, and other federally funded entities increase capacity in adoption. Also assists in improving the effectiveness and quality of adoption and post adoption services provided to children and their families. www.nrcadoption.org

National Data Analysis System. Integrates national child welfare data from many sources. www.ndas.cwla.org

North American Council on Adoptable Children. Founded in 1974 by adoptive parents, the North American Council on Adoptable Children is committed to meeting the needs of waiting children and the families who adopt them. www.nacac.org

U.S. Department of State. Provides information on adoption laws and practices in all countries. Administers the Hague Convention on Intercountry Adoption. www.state.gov/family/adoption or www.travel.state.gov/family/adoption/intercountry



