



## **NEGOTIATING TITLE IV-E ADOPTION ASSISTANCE AGREEMENTS**

- ◆ Adoption Assistance History in the United States
- ◆ Federal law, policies, and Eligibility Requirements  
for the Title IV-E Adoption Assistance Program
- ◆ Discussing and Negotiating Title IV-E Adoption Assistance Agreements
  - ◆ Discussing Adoption Assistance with Older Children/Youth
  - ◆ Case Scenarios: Applying Your Knowledge and Skills





# **Module: Negotiating Title IV-E Adoption Assistance Agreement**

## **Trainer's Preparation**

### **Module Contents and Training Process**

This module focuses on the Title IV-E Adoption Assistance Program. State trainers should also include the State's policies and procedures for the Title IV-E Adoption Assistance Program and be fully knowledgeable about all adoption assistance policies and procedures available in the State.

This module will cover:

- history of adoption subsidy in the United States.
- federal laws, policies and eligibility requirements for Title IV-E Adoption Assistance Program.
- core components of negotiating and discussing Title IV-E Adoption assistance.
- discussion of Title IV-E Adoption assistance with older children/youth and prospective adoptive families.
- the Title IV-E Adoption assistance video and allow participants to discuss and apply knowledge and skills gained in the training to several case scenarios.
- case scenarios, wherein participants will apply their knowledge and skills.

### **Preparing to Train**

Before beginning this module, trainers should:

- Gather information on the State's current Title IV-E Adoption Assistance Program, including:
  - current adoption State statutes, regulations, or policy as it pertains to the Federal Title IV-E Adoption Assistance Program, including the special needs definition.
  - current foster care policy about transitioning child/youth to adoption.



- position and role of staff negotiating or discussing completing Adoption Assistance Agreements; for example, permanency worker, adoption worker, ongoing/reunification social worker, or a designated staff member.
- copies of the State's Title IV-E Adoption assistance forms and any material or pamphlets provided to pre-adoptive families prior to developing the Adoption Assistance Agreement.
- copy of the State's Title IV-E Adoption assistance rate schedule and current foster care rate schedule.
- Review additional reference materials in the Trainer's Guide including the Child Welfare Policy Manual Section of the Title IV-E Adoption Assistance Program.
- **For additional technical assistance regarding Title IV-E Adoption assistance eligibility, or state policy conformance, please consult with your Children's Bureau Regional Office.**
- Review and be totally comfortable with the content and delivery methods required for this module especially the setup and debriefing of the video and team activities.

#### **Required materials/equipment and room setup for this module:**

- Participant's Handouts with State-specific policies and forms used in implementing the Federal Adoption Assistance Program.
- This module uses a video; therefore, a TV or projector and a VCR/DVD player is required.
- The basic materials needed for the training session are:
  - Trainer's Guide
  - Participant's Handouts
  - Pre-test and Post Test
  - Evaluation forms
  - Wall Screen/laptop and LCD projector
  - PowerPoint presentation
  - Easel and easel paper
  - DVD/VCR/TV monitor, videos
  - Pens/pencils, markers, erasers
  - Extension cords
  - Name tents
  - Post-it pads/index cards
  - Parking Lot poster/easel paper labeled "Parking Lot"



- Masking tape
  - Sign-in sheets
  - Paper clips
  - Paper or styrofoam cups
- If using a computer to play the video, ensure that trainees will be able to hear the video or whether external speakers are needed to ensure quality sound.
  - An ideal participant size for this module is 20-25 participants. The ideal room set-up is round tables that accommodate 4-6 participants. Since Team Activities are common, this size and room set-up helps to set the informal, interactive tone for the training. Further, it reduces the amount of time required to get participants in teams.

### **General Training Tips:**

In addition, the following pointers are applicable to all trainings:

#### **Before the training day**

- Talk with co-trainers about how to train as a team. Set ground rules for working together, and delineate roles.
- Arrange for the training room and room setup.
- Arrange for the needed equipment and training supplies.
- Ensure that there are copies of the participant handouts for each participant.

#### **Read and review the Trainer's Guide**

- Review the **Introduction: Objectives, Competencies, and Content** for each module and follow the specific preparation instructions for the module.

#### **Review the content for each training session**

- Trainers should use the white space in the **Trainer's Guide** for summary bullets that will keep them on track and ensure that the content is covered in the time allotted without reading it word for word.
- Trainers may find it helpful to underscore or highlight concepts and key points to emphasize, adding personal comments and anecdotes as appropriate.
- Watch the video.

### **Practice with the video equipment to be used**

- **Prior to each session, test the equipment.** Check the monitor/VCR or laptop/LCD to be sure you know how to connect and operate the equipment. Ensure that electrical outlets and power cords are packaged along with 2 extension cords. Play portions of the actual videotape/DVD that will be used to make sure it is good working order. If possible, walk around the training room to view and hear the video from several of the positions that the participants will occupy. Adjust the picture (color, contrast, brightness, etc.) and volume accordingly.
- After checking the videotape/DVD, be sure to reset it to the beginning or to cue it to the appropriate place.
- Immediately prior to the session, play the beginning of the videotape/DVD again to double check that it is the correct one. Be sure to reset.
- If you are using a PowerPoint Presentation, make sure you know how to work the laptop and LCD and that you have an appropriate screen or projection surface in the training room. Test to ensure that everything is in working order before the training starts.

### **During the training**

- Validate participants responses by rephrasing, reinforcing, or repeating later in training, by smiling, making eye contact, nodding, gesturing in a nonjudgmental way. **“Never say, “Yes but . . .”**
- Take some risks in sharing information about your relevant personal experiences and feelings. Model that it is all right to do this. Make the group more comfortable and willing to take risks. Elicit input from the group’s experiences.
- Keep the training experiences lively. Do not read from the curriculum!
- Make clear transitions between segments of each session by bringing each segment to closure and introducing new segments by tying in concepts and ideas from previous materials. Use participants comments as transitions whenever possible.
- Be conscious of time. **Each subject need not be exhausted before you move on.** Move the group along without making participants feel rushed.
- Start and end each session on time. **Never keep participants for more than the time allotted for each module.**



### **After the training**

- Send the pre-tests and post tests to Public Research and Evaluation (PRES).
- Review participant evaluations; note where you succeeded and where you could improve or modify. Modify your future preparations and presentations based on this feed-back.
- Debrief with your co-trainer.
- Provide information to National Resource Center for Adoption on areas/issues that need further research or refinement.





# Agenda

**(Note: The Agenda may be modified to accommodate or address state-specific issues.)**

Welcome and Overview

Adoption in the United States: Yesterday and Today

Federal Law, Policies, and Eligibility Requirements for the Title IV-E  
Adoption Assistance Program

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

Negotiating Title IV-E Adoption Assistance Agreements

Discussing Adoption Assistance with Older Children/Youth

Video and Discussion: *Talking About Adoption Assistance*

Case Scenarios: Applying Your Knowledge and Skills

Wrap-up and Post Test





# Title IV-E Adoption Assistance Program

## **Objectives:**

- *To provide State staff 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



## Welcome and Overview

### ***Purpose:***

- *Welcome participants to the training site.*
- *Provide overview of the content.*
- *Share any necessary “housekeeping” details, such as break times, facility locations, lunch arrangements, cell phones, etc.*



### **Trainer's Points**

- ☐ Welcome to Negotiating Title IV-E Adoption Assistance Agreement Training. My name is . . . (*introduce self and give some background information*).
- ☐ Today's training focuses on:
  - 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
- ☐ The objectives and competencies for this module are:

#### **Objectives**

- To inform State staff 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**

- 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.



- ☐ We will take a break at approximately (*give time*) and break for lunch at approximately (*give time*).
- ☐ Before we begin, let's take care of a few housekeeping details. The rest rooms are located (. . .).
- ☐ Please turn off all cell phones or put them on vibrate. Take emergency calls outside the training room so as not to disrupt others.
- ☐ Your questions will be answered when asked or deferred to a later point in the training. If deferred, they will be written in the Parking Lot posted on the wall here to ensure that they are answered. If, during the course of the training, you have a question that you do not choose to ask aloud, feel free to write it on a Post-it Note and place it in the Parking Lot. If the trainer or someone in the group cannot respond to a question, the trainer will try to obtain an answer by the end of the training day or will forward the answer to all attendees after the training.
- ☐ Each of you has a packet of Participant's Handouts. These Handouts contain information to be discussed today as well as additional information for your review after the training.

## Pre-Test

### Trainer's Points



- ☐ The agency requires a pre- and post test in order to assist us in measuring the effectiveness of this training.
- ☐ You will have 10 minutes to complete the test. We will collect them at your table.
- ☐ Thank you in advance for your cooperation.
- ☐ Pre-tests to be sent to Public Research and Evaluation Services (PRES), the national evaluator for the National Resource Center for Adoption. PRES will compile and return the results to you and the designated State official.



## Participant Introductions

### Trainer's Points

- ☐ Now let's take time to get to know one another. (*Select one of the options.*)

#### **Option 1: Walkabout**

- ✓ Write the following questions on easel paper:
  - **What strengths do you bring to this training?**
  - **What do you want to learn in this training?**
  - **What is the greatest challenge in placing children from the child welfare system with adoptive families?**
- ✓ As participants arrive, ask each to walk about the room and answer the questions on the easel paper.
- ✓ After answering the questions, participants find a place to sit and complete the nameplate.
- ✓ When you get to this section, ask participants to share their names and places of employment.
- ✓ Review the answers to the Walkabout. Summarize and comment on the similarities and differences in the answers, how the strengths of the participants support the training, and if the challenges will be addressed.

#### **Option 2: Group Introductions**

- ☐ Please share with us your responses to these four questions:
  - **Who are you?**
  - **Where do you work?**
  - **What tasks do you perform?**
  - **What are your expectations for the training?**
- ☐ “I will write the expectations for the training on easel paper and post them. If there are expectations outside the scope of what we can accomplish today, I will tell you. I will check back during the course of the day to determine if I am meeting your expectations.”



### **Option 3: Personal Introductions**

- ☐ Find someone you don't know.
- ☐ You have 2 minutes to share:
  - two things not apparent that you have in common besides your job or workplace.
  - an adoption success you had in the last year.
- ✓ Ask volunteers to share some commonalities and successes.
- ✓ Summarize responses.

### **Intro DVD**

#### **Trainer's Points**

*Trainers Note: If you are training multiple modules, show this DVD at the beginning of the first module.*

- ☐ Next, we are going to look at a video that provides the background for how the Harris children entered the child welfare system.

### **DVD Description**

#### **“The Day Everything Changes” (7:00 min.)**

- ☐ In this brief vignette, we witness the events that led up to 15-year-old Isaiah and 9-year-old Michael Harris entering foster care. When Michael accidentally starts a kitchen fire while cooking, police authorities are unable to locate the boys' mother. After a visit to the hospital to treat Michael's burns, the boys are placed in two separate foster homes, despite their protests. The vignette introduces the boys' paternal grandmother, Ernestine Harris, their younger sister, Elizabeth Harris, and the Harris family's closest friends, “Auntie” Lorita Webster and her son Jesse.
- ✓ Show the DVD.

### **Transition**

- ◆ Now let's discuss Adoption Assistance in the United States.

Trainer's  
Points



Trainer's  
Points



# Adoption Assistance in the United States: Yesterday and Today

## Trainer's Points

- ☐ Adoption assistance or adoption subsidy, as it is also called, is used to provide financial and medical assistance for children with special needs who are adopted. It came into being as an effort to increase the adoptive placements of children/youth that were considered “hard-to-place” or “unadoptable” because of their “special needs and to not allow income to be a barrier to prospective adoptive parents.”
- ☐ Children/youth who were classified as having “special needs” included those who had a mental, emotional, or physical disabilities; were members of a minority ethnic or racial group; were members of sibling group; and/or were older children.
- ☐ The adoption of these “special needs” children was previously felt to be unattainable because they were considered difficult, risky, or likely to fail. (The Adoption History Project, Department of History, University of Oregon, <http://www.uoregon.edu/~adoption/index.html>)
- ☐ Fortunately, these beliefs were challenged after World War II, when agencies began to consider the feasibility of adoption for these “special needs” children. (The Adoption History Project, Department of History, University of Oregon, <http://www.uoregon.edu/~adoption/index.html>)
- ☐ By the 1960s, special needs adoptive placements were aided by the creation of statewide adoption exchanges and parent-led organizations which publicized the need for permanent families for these children and youth. (The Adoption History Project, Department of History, University of Oregon, <http://www.uoregon.edu/~adoption/index.html>)
- ☐ In order to facilitate the adoption of these children and in order to prevent them from languishing in the foster care system into the loving homes of permanent families, some states provided financial resources to help support these children in adoptive homes.
- ☐ The first such program was instituted in 1968, when the state of New York, through an experimental program, provided case benefits to families adopting children with special needs.
- ☐ More states replicated the New York program. However, they found that there were financial disincentives in maintaining the program due to states being solely financially responsible for meeting the



costs to maintain children/youth in their adoptive placement, as opposed to when these same children/youth were in foster care and the State could claim federal matching funds.

- ☐ In 1980, with the passage of the Adoption Assistance and Child Welfare Act (P.L. 96-272), the first Federal Adoption Assistance Program was created. This open-ended entitled program required all States to establish adoption subsidy programs and provide adoption assistance payments for qualified children who were adopted.
- ☐ It also removed the financial disincentive to States by providing federal matching funds for these assistance payments, as well as administrative payments for the expenses associated with placing children/youth in adoption and the training of professional staff and parents involved in adoption.
- ☐ According to the latest findings by Research Triangle Institute in its report to the Office of the Assistant Secretary for Planning and Evaluation/Department of Health and Human Services entitled “Understanding Adoption Subsidies: An Analysis of AFCARS Data,” authors Dalberth, Gibbs, and Berkman noted that 88% of children adopted in FY 2001 received an adoption subsidy and 74% received federal adoption assistance through the Title IV-E Adoption Assistance Program.
- ☐ Their analysis also showed “a significant correlation between subsidy receipt and the percentage of each State’s eligible children who are adopted,” as displayed by data indicating that children living in states in which “the median time to adoption was longer, were more likely to receive subsidies and received higher subsidies.” This suggested that subsidy could be used as a tool to increase the adoption opportunities for those who waited the longest while helping States decrease the number of children awaiting adoption.
- ☐ There was also a cost benefit to the State, as the cost of providing adoption assistance to families was still less than keeping these same children/youth in care due to foster care administrative costs.
- ☐ Many laws since 1980 have amended the Adoption Assistance and Child Welfare Act and have created additional benefits, including medical assistance and non-recurring cost reimbursement for families. We will discuss these laws and their implications in the next section, Adoption Assistance: Title IV-E Eligibility Requirements.



## Transition

- ◆ Are there any questions on what we have discussed thus far?
- ◆ Now let's discuss the eligibility requirements for the Title IV-E Adoption Assistance Program.



# Adoption Assistance: Title IV-E Eligibility Requirements

## Trainer's Points

- ☐ As previously mentioned, adoption assistance or adoption subsidy is used to designate financial payments for children or youth who are adopted.
- ☐ Under the Title IV-E Adoption Assistance Program, children/youth who are eligible for the program are also categorically eligible for Medicaid.
- ☐ Turn to the **Participant Handout 1, *State Adoption Procedures and forms for Title IV-E Adoption Assistance and Medical Assistance.*** This handout provides all the policies, procedures, and forms we will be using for training this module. The policy specific to the States definition of special needs is (*give policy item # and definition*).
- ☐ Our State defines a child or youth with special needs as having the following (*state definition*): The special needs definition is instrumental in determining whether a child/youth is eligible for Title IV-E Adoption assistance which we will discuss later in this section.
- ☐ Furthermore, the policy specific to negotiating adoption assistance is (*give policy item #*). It states: (*discuss policy*). The Title IV-E Adoption Assistance Program requires that you negotiate or discuss the Adoption Assistance Agreement with the pre-adoptive family. We will discuss negotiating the Adoption Assistance Agreement in more detail later in the training.
- ☐ Now let's review federal expectations for negotiating Title IV-E Adoption assistance.

Trainer's  
Points



Handout 1



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



## Trainer's Points

- **Participant's Handout 2, the *Children's Bureau's Child Welfare Policy Manual, Section 8.2***, provides the policies for Title IV-E Adoption Assistance Program.
- We will review some of the content. Our State is required to follow these policies with respect to Title IV-E Adoption Assistance Program eligibility determinations and payments.

*(Trainer's Handout 2 can be found at the beginning of the Reference Section of this module. Participant's Handout 2 is after Handout 1.)*



**Handout 2**



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



## Trainer's Points

Trainer's  
Points

### Statutory Background

- ☐ The **Adoption Assistance and Child Welfare Act of 1980** (PL 96-272) created the first Federal Adoption Assistance Program under Title IV-E, Section 473 of the Social Security Act (the Act).
- ☐ **Original** paths to eligibility under the Adoption Assistance and Child Welfare Act were:
  - Children/youth who were eligible for the Aid to Families with Dependent Children (AFDC) program and removed from their homes by court order.
  - Children/youth eligible for Supplemental Security Income (SSI) benefits.
- ☐ Since that time, eight laws have amended the Federal Adoption Assistance Program over the last 27 years, some of which also created new paths to eligibility. They include:
  1. The **Tax Reform Act of 1986** (PL 99-514) requires federal reimbursement for nonrecurring expenses of adoption to parents who adopt a child with special needs.
  2. **Omnibus Budget and Reconciliation Act of 1987** (PL 100-203) adds eligibility for children/youth voluntarily placed in foster care and children/youth of minor parents in foster care.
  3. **Personal Responsibility and Work Opportunity Reconciliation Act of 1996** links eligibility for Title IV-E to 1996 State AFDC criteria.
  4. The **Adoption and Safe Families Act of 1997** (PL 105-89) provides that Title IV-E Adoption assistance eligible children retain Title IV-E eligibility in a subsequent adoption if adoptive parents die or if the adoption dissolves and if the child/youth remains a child/youth with special needs. It also requires the State to conduct a criminal records check (unless the State opted out) on prospective adoptive parents of children/youth who would receive Title IV-E Adoption assistance.
  5. The **Foster Care Independence Act of 1999** (PL 106-169) increases AFDC resources limit from \$1,000 to \$10,000 for Title IV-E foster care and Title IV-E Adoption assistance eligibility purposes.



6. The **Deficit Reduction Act of 2005** (PL 109-171) clarifies that for Title IV-E Adoption assistance, a child/youth must meet the 1996 State AFDC eligibility criteria in the specified relative's home from which he/she is removed and eliminates the requirement that the child/youth would have been AFDC eligible at the initiation of the adoption proceedings.
7. The **Adam Walsh Child Protection and Safety Act of 2006** (PL 109-248) requires fingerprint-based FBI background checks for prospective adoptive parents in all cases; prohibits the State from claiming Title IV-E Adoption assistance if prospective adoptive parents have certain felony convictions; and requires child abuse and neglect registry checks in each State the adult(s) in the home have lived in the past five years.
8. The **Fostering Connections to Success and Increasing Adoptions Act of 2008** (PL 110-351) extends and expands adoption incentives through 2012, creates an option to extend eligibility for title IV-E adoption assistance to age 21, de-links adoption assistance from Aid to Families with Dependent Children (AFDC) eligibility, defines an "applicable child" is for the purpose of receiving Title IV-E Adoption assistance, informs States of the requirement to track and reinvest adoption savings, amends the Chafee Foster Care Independence Program (CFCIP) and the Education Training Voucher (ETV) Program to youth who after age 16 are adopted, provides as option to extend Title IV-E Adoption assistance up to 21, and requires states to inform prospective adoptive parents of the Federal adoption tax credit.

*(Source: Title IV-E Adoption Assistance: Everything you always wanted to know but were afraid to ask, Part 1 & 2, May 1, 2007. A Presentation by the Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services, Washington, DC. and theACYF-CB-PI-10-11: Guidance on Fostering Connection to Success and Increasing Adoptions Act of 2008)*

## Trainer's Points

- ☐ Turn to **Participant's Handout 3, Adoption Assistance: Title IV-E Eligibility Requirements and Title IV-E Adoption Assistance Eligibility Flow Chart.**
- ☐ Let's review these requirements.

# 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

(continued on next page)



relinquishment, the requirement of section 473(c) (1) of the Act will be satisfied, as long as 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.

*(continued on next page)*



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

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:

*(continued on next page)*



- 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 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.

*(continued on next page)*



**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.**

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.

*(continued on next page)*



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.
    - If placed with an adoptive parent who is an undocumented alien or an alien who

*(continued on next page)*

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.

3. 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.
    - The youth is participating in a program or activity that promotes or removes

(continued on next page)



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

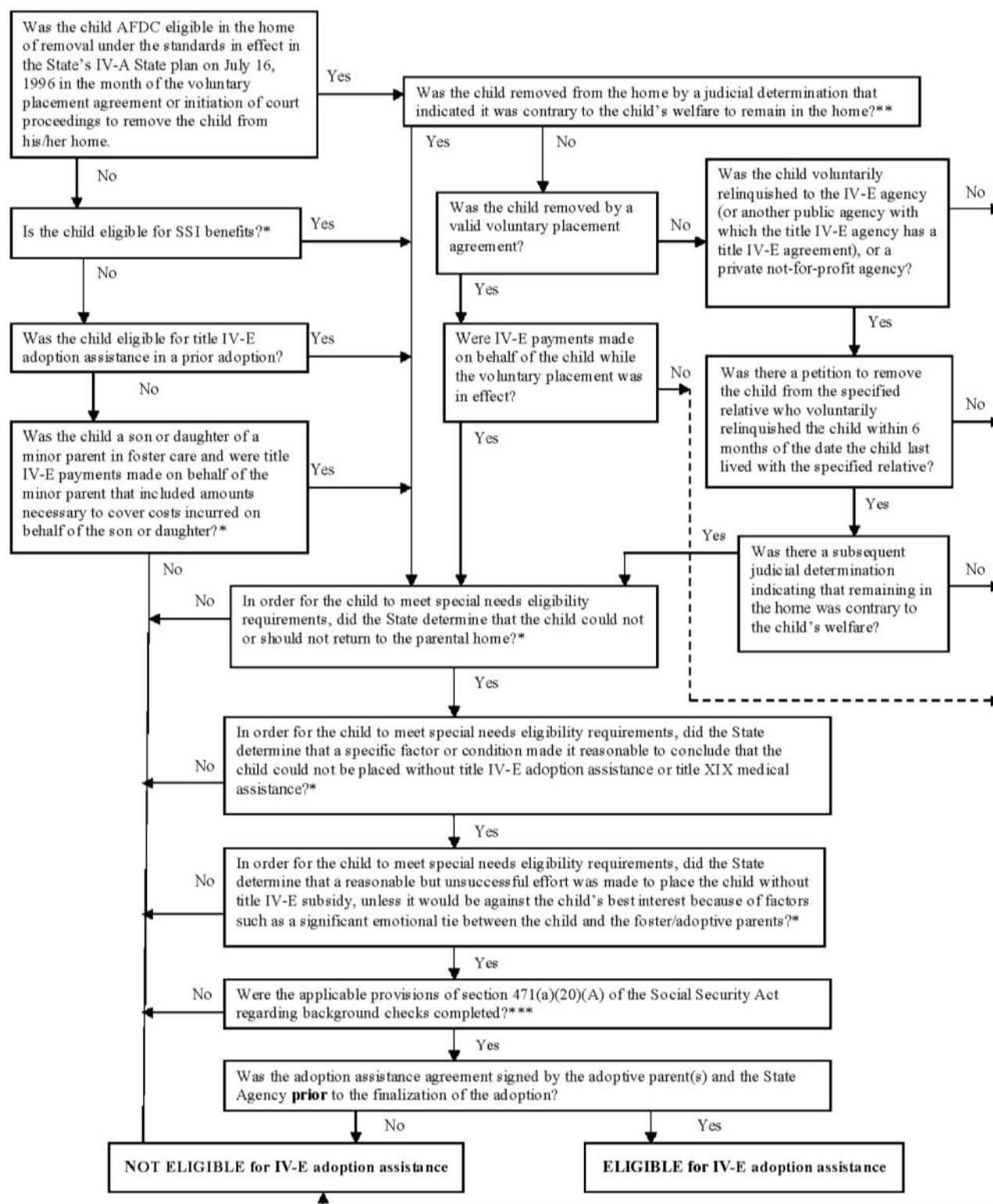
- Children/youth receiving Title IV-E adoption assistance are categorically eligible for Title XIX (Medicaid) services. As such, the State must provide Medicaid to all children/youth under a Title IV-E Adoption Assistance Agreement. The State cannot require an adoptive parent to provide health insurance 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 Title IV-E Adoption Assistance Eligibility

### Team Activity

- ☐ Turn to **Participant's Handout 4, Case Scenario: Peter's Eligibility for Title IV-E Adoption Assistance.**
- ✓ Participants should use **Handout 3** to make the determination.
- ☐ Team with the person sitting on your left use **Handout 3** to aide you in this activity. Take 10 minutes to answer these questions:

- **Is Peter eligible for Title IV-E Adoption Assistance?**

*(Make sure to document the policy supporting your decision. Be prepared to report out your determination and justification when we reconvene.)*

**Possible Response:** *They do not have all the information to make a full determination. As Handout 3 indicates in the first box:*

1. *The child/youth must be AFDC eligible. While Peter's grandmother is receiving AFDC benefits for him was his birth mother receiving AFDC benefits for him.*

- **What additional information, if any, do you need to make your determination?**

1. *The box states that the child/youth must have been eligible in the "removal home." The participants do not have a copy of the removal order to ascertain that the child/youth was eligible for AFDC from the home that the child/youth was removed from.*



## 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?**

*It is unknown at this time whether Peter is eligible for Adoption Assistance.*

- **What additional information, if any, do you need to make your determination?**

*We need to verify that Peter was AFDC eligible in the home of removal under the standards in effect in the State's IV-A State plan on July 16, 1996 at the initiation of court proceedings to remove Peter from his home or see if the Peter is eligible for SSI benefits.*





## Transition

- ◆ Are there any questions about Title IV-E eligibility?
- ◆ We will now discuss Negotiating Adoption Assistance Agreements.



# Negotiating Title IV-E Adoption Assistance Agreements

## Trainer's Points

- ☐ The availability of Title IV-E Adoption Assistance funds should be promoted to prospective adoptive parents. States are required to “actively seek ways to promote the Adoption Assistance Program.” (CWPM Section 8.2E, Question 1)
- ☐ “Prospective adoptive parents should be notified about the availability of adoption assistance for the adoption of a child/youth with special needs.” (CWPM Section 8.2E, Question 1) A good way to promote the Title IV-E Adoption Assistance Program in your state would be to include information on the Program during Adoptive Family Recruitment Campaigns, during the adoptive parent orientation and/or training process, during the Family Profile/Home Study/Social History and Assessment process, and when the decision has been made to place a Title IV-E eligible child/youth with a prospective adoptive family. *(Tip to trainer: Find out before hand how the agency notifies prospective adoptive parents about availability of adoption assistance. Trainer may wish to show example of aging brochure or other document such as Adoptive Parent manual, web site, etc.*
- ☐ The Children’s Bureau’s Title IV-E policy on Adoption Assistance states, “The amount of the adoption assistance 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.” (CWPM Section 8.2D.4, Question 1)
- ☐ “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 including educational needs of the child.” (CWPM Section 8.2A.2, Question 1)
- ☐ Negotiation and discussion, as used in child welfare, means that the adoption/ permanency caseworker seeks to develop a plan to meet the adoptive child/youth’s needs using information about the child/youth (what special needs does the child/youth have and methods or resources needed to meet them) and information about the adoptive family (what resources does the family have, what resources are reasonably available in the community at no charge).



- ☐ Negotiation and discussion starts with knowing the child/youth, the family, the community resources, and the State's Title IV-E Adoption Assistance policies and procedures.
- ☐ The negotiation and discussion process varies from state to state. In some states, an adoption assistance rate equal to the rate is equal to the rate the child received in foster care is offered to the adoptive parents and then discussed. In other states, the agency fully negotiates the actual rate within the constraint of the foster care rate as the maximum that can be approved.
- ☐ All information about the child/youth's special needs should be provided to the family so that they can make informed decisions when negotiating the Adoption Assistance Agreement. (Ford, 2005)
- ☐ Families should also receive a written copy of the State's Title IV-E Adoption Assistance Policy, as well as other written material regarding the Adoption Assistance Program and other post adoption resources available to them, after the adoption is consummated.
- ☐ Negotiating Adoption Assistance Agreements with the prospective family is a process. Families should be given the opportunity to meet more than once to discuss what should go into the agreement. (Ford, 2005)
- ☐ Turn to **Participant's Handout 5, *Key Issues to Consider When Negotiating Title IV-E Adoption Assistance Agreements***, adapted from the article, "The Dance of Negotiation," by Dr. Sharen E. Ford, which is included in your reference section.
- ✓ Review the handout with the participants, going over the information provided in the handout.



Handout  
Handout 5

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

Key Issues	Questions To Ask	Importance
<ul style="list-style-type: none"> <li>■ Know your agency.</li> <li>■ Know your agency's policy.</li> <li>■ Provide ongoing staff training.</li> </ul>	<ul style="list-style-type: none"> <li>■ 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?</li> <li>■ Whose role is it to discuss adoption assistance with the family?</li> <li>■ When does your agency share information about adoption assistance with prospective families?</li> <li>■ Does your agency share information about adoption assistance with all providers including kinship care providers?</li> <li>■ How is that information shared: verbally or in writing?</li> </ul>	<ul style="list-style-type: none"> <li>■ Staff can only educate families if they have good information.</li> <li>■ Staff is able to embrace clear direction and able to work with confidence within the boundaries of their agency's policies and procedures.</li> </ul>
<ul style="list-style-type: none"> <li>■ Know the federal policy (Social Security Act, Section 473, and the Federal Child Welfare Policy Manual).</li> </ul>	<ul style="list-style-type: none"> <li>■ Do I understand the nuances of the federal policy enough to appropriately apply it in the case before me?</li> <li>■ Do I understand why the child is or isn't determined Title IV-E eligible?</li> <li>■ Why is it beneficial for a child to be determined Title IV-E eligible?</li> <li>■ Do I understand policy regarding state funded adoption assistance?</li> </ul>	<ul style="list-style-type: none"> <li>■ 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.</li> <li>■ Families often use these resources to point out areas of concerns that they have about the negotiation process.</li> </ul>
<ul style="list-style-type: none"> <li>■ Know the child.</li> <li>■ Regularly document and update the child/youth's assessment.</li> <li>■ Know the child's needs.</li> </ul>	<ul style="list-style-type: none"> <li>■ What does the current care provider say about the child and their needs (behavior)?</li> <li>■ What level of foster care is the child currently receiving?</li> <li>■ Why is the child receiving that level of foster care?</li> <li>■ Has the level of placement been reassessed in the last 6 months? If not, should it be; for example, 6 months prior to termination)?</li> <li>■ What identified special needs does the child have?</li> <li>■ 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?</li> </ul>	<ul style="list-style-type: none"> <li>■ 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.</li> </ul>
<ul style="list-style-type: none"> <li>■ Know the prospective adoptive family.</li> <li>■ Know the family's needs.</li> </ul>	<ul style="list-style-type: none"> <li>■ What does the family's home assessment say about their ability to meet the child's needs?</li> <li>■ What resources does the family voluntarily offer to assist in the care of the child?</li> <li>■ Does the level of services provided by the family impact the negotiation process?</li> </ul>	<ul style="list-style-type: none"> <li>■ This information can be useful in assuring the family's circumstances are considered in developing a fair offer.</li> <li>■ No means testing.</li> </ul>





## Large Group Discussion

- **Have you handled negotiation and discussion of adoption assistance?**
  - **What are the challenges to negotiating and discussing adoption assistance?**
  - **How did you overcome these challenges?**
- ☐ Remember that adoption assistance is intended to meet the current and projected needs of the child/youth so that he/she can be adopted.
  - ☐ An integral part of the program should include the flexibility to re-evaluate the needs of the children/youth and families during changing circumstances. This can help to ensure that the needs of the child/youth are being met.
  - ☐ A part of the negotiation is to engage the parents in a discussion about the needs of the child/youth. This is an opportunity to identify and connect parents to appropriate resources within the community. Additionally, the process allows parents to ask questions and raise concerns helping to develop a relationship between the adoptive parents and the agency.
  - ☐ Adoption assistance payments and medical assistance are the child/youth's benefits. Negotiating the child/youth's adoption assistance with the potential adoptive parents includes a thorough explanation of the purpose of adoption assistance/subsidy and the State's policies and procedures in understandable language.
  - ☐ To forestall any impression from older children/youth when things are not going well with the adoptive parents that, "They only wanted me for the money," we encourage the practice of discussing adoption assistance with older children/youth so that they understand that adoption assistance and Medicaid is their entitlement no matter where they are placed.

### ***Written Agreements***

- ☐ Title IV-E Adoption Assistance Program requires a written Adoption Assistance Agreement. This Agreement:
  - must be signed by all parties: adoptive parents and the State agency representative.



- a copy must be given to each party.
- must be in effect at the time of, or prior to, the final decree of adoption.
- The Agreement must specify:
  - duration.
  - the nature and amount of any payment, services and assistance to be provided.
  - that the child is eligible for Medicaid.
  - that the Agreement shall remain in effect regardless of the State of which the adoptive parents are residents; and that the interests of the child/youth are protected if the adoptive parents and child/youth move to another State.

## Trainer's Points

- ☐ Turn to **Participant's Handout 1, *Adoption Assistance Agreement***. Let's look at the content of our State's Adoption Assistance Agreement.
- ✓ Discuss the Agreement.
- ☐ Remember, if it is not written in the Agreement, it is not binding on the Agency or the family. The Agreement is the contract between the parties. It describes the duties and responsibilities of each party.
- ☐ **Amount of Adoption Assistance**
  - As stated previously, the amount of adoption assistance is determined through a discussion and negotiation process between adoptive parents and the State agency, based on the needs of the child/youth and circumstances of the parents. Discussion of anticipated ordinary/special needs of the child/youth projected over time may be part of the negotiation.
  - The adoption assistance amount cannot exceed the amount the child/youth would have received if in a foster family home. However, it is permissible for the Agreement to state a \$0 subsidy/Medicaid if that is the result of the negotiation. By including these in the initial Agreement, it allows for the Agreement to be amended, as negotiated, if the circumstances of the child/youth or parents change.



## ☐ **Adoptive Parents' Income**

- Adoptive parents' income is *not* relevant to child/youth's eligibility for Title IV-E Adoption Assistance. Use of a means test is prohibited.

## ☐ **Consideration of Other Benefits**

- The State may consider other federal benefits such as Social Security Disability Insurance (SSDI) when negotiating the amount of adoption assistance with the parents. However, the adoptive parents must concur with the amount of the assistance.

## ☐ **Effective Date**

- Title IV-E Adoption Assistance may commence prior to the finalization of the adoption, if:
  - the child has been placed in the pre-adoptive home.
  - the child has been determined eligible for Title IV-E Adoption Assistance.
  - the Adoption Assistance Agreement has been signed by the adoptive parents and the State agency.

## ☐ **Adoptive Parents Reporting Requirements**

- The adoptive parent(s) are required to keep State or local agency informed of circumstances which would make the child/youth ineligible for adoption assistance or in a different amount.

## ☐ **Modifications to Agreements**

- After an agreement is signed, if the State's monthly foster family home rate is increased/decreased, **the State cannot adjust the adoption assistance amount accordingly** without the concurrence of the adoptive parents. The parents are not "locked" into the original rate even though the Adoption Assistance Agreement is signed and in place if the monthly foster family home rate is increased/reduced in the State.
- Unless there is an across-the-board reduction of foster care maintenance payments, once a child/youth is determined eligible for Title IV-E Adoption Assistance and the Adoption Assistance Agreement is signed, a State cannot reduce payments to adoptive parents without their concurrence.

- Once an Adoption Assistance Agreement is signed and in effect, it can be **terminated only under three circumstances**:
  1. The child/youth has attained the **age of 18 (or 21, at State option, if the State has determined that the child/youth 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/youth; for example, parental rights have been terminated, the child/youth becomes an emancipated minor, marries, or enlists in the military.
  3. The State determines that the adoptive parents are **no longer providing any support** to the child/youth. Provision of tuition, clothing, maintenance of special equipment in the home, or services for child/youth's special needs are acceptable forms of financial support.
- Title IV-E Adoption Assistance cannot be terminated, suspended, or discontinued for any other reason than those enumerated above. **Inappropriate** reasons include:
  - failure of the adoptive parents to respond to a request for a review/renewal/reauthorization of the Adoption Assistance Agreement.
  - if the child/youth is placed temporarily outside the home (but the adoptive parents are still providing support).
  - if the child/youth is working full time (but the adoptive parents are still providing support).

*(Source: 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 8.2A)*

#### ☐ **Payments for Nonrecurring Expenses**

- Nonrecurring expenses are the reasonable and necessary adoption fees, court costs, attorney fees and other expenses directly related to the legal adoption of a **child with special needs** which have not been reimbursed from other sources or funds.



- “Other expenses” include expenses for adoption studies, health and psychological examinations, and reasonable costs of transportation, lodging, and food when necessary to complete the placement or adoption process.
- Nonrecurring expenses must be provided for any child/youth determined to be a child/youth with special needs. The child/youth does not have to be receiving adoption assistance. Reimbursement for such costs is not contingent upon a child/youth’s eligibility for AFDC, Title IV-E foster care, or SSI, nor does the child/youth have to be under responsibility of the State agency for placement and care.
- An Adoption Assistance Agreement for nonrecurring expenses must be signed by the State and the adoptive parents and the child/youth must be placed for adoption in accordance with applicable state/local laws. The Nonrecurring Expenses Agreement may be a separate document or part of an agreement for either state or federal adoption assistance or services.
- The Nonrecurring Expenses Agreement must be **signed prior to the finalization of adoption.**

- ☐ There are no income eligibility requirements (no means test) for a parent to receive nonrecurring expenses reimbursement.
- ☐ The amount of nonrecurring expenses payment is determined through agreement between the adopting parent(s) and the State agency but cannot exceed \$2,000 per adoption episode. The State may set a reasonable lower maximum based on reasonable charges.
- ☐ When **siblings** are placed for adoption, reimbursement is available for each child/youth individually.
- ☐ The State may reimburse the parents for the nonrecurring expenses if they file a claim with the State agency within two years of the date of the final decree of adoption.
- ☐ When adoption involves **interstate placement, the State entering into the** Adoption Assistance Agreement is responsible for paying the nonrecurring expenses. If no federal or State Adoption Assistance Agreement exists for an ongoing subsidy, the State in which the initial adoption decree is issued is responsible for reimbursing nonrecurring expenses if the child/youth meets the definition of special needs.

- ❑ A State cannot limit reimbursement by category; for example, to only attorney fees, but must reimburse for any of the nonrecurring expenses described at 45 CFR 1356.41(i) up to the State reimbursement limit.

- *Note:* 45 CFR 1356.41 (i) states:
  - (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, which are not incurred in violation of State or Federal law, and which have not been reimbursed from other sources or other funds. “Other expenses which are directly related to the legal adoption of a child with special needs” means the costs of the adoption incurred by or on behalf of the parents and for which parents carry the ultimate liability for payment. Such costs may include the adoption study, including health and psychological examination, 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 placement or adoption process.

- ❑ A State may claim Federal financial participation for the nonrecurring expenses of adoption even if the adoption is never finalized, if there is a signed agreement between the adoptive parent(s) and the State/local agency, and the State has determined that the child/youth is a child/youth with special needs.

- ❑ **Reimbursement of nonrecurring expenses, if the child/youth is adopted from abroad is prohibited based on section 473.**

*(Source: 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 8.2D.3)*

## Interstate Adoptions

- ☐ If a State agency *has* responsibility for placement and care, that State is responsible for entering into the Adoption Assistance Agreement and providing the Title IV-E Adoption Assistance, even if the child/youth is placed in an adoptive home in another state.
- ☐ If a State agency *does not have* responsibility for placement and care, the Adoption Assistance Application should be made in the adoptive parents' state of residence, **and** the public child welfare agency in the adoptive parents' state of residence is responsible for determining whether the child/youth is eligible, entering into the Adoption Assistance Agreement, and paying the subsidy.

## Adoption Dissolutions

- ☐ If a Title IV-E Adoption Assistance dissolves or adoptive parents die and the child/youth is placed with a State agency that assumes responsibility for placement and care, it is the State that has placement and care responsibility of the child/youth that has the responsibility to determine whether or not the child/youth meets the definition of a child/youth with special needs. If it is determined that the child/youth has special needs, the State may enter into an Adoption Assistance Agreement in a subsequent adoption.
- ☐ If a public child welfare agency is **not** involved in subsequent adoptive placement of the child/youth, it is the public child welfare agency in the subsequent adoptive parents' State of residence that is responsible for determining whether the child/youth meets the definition of special needs and, if so, enter into the Adoption Assistance Agreement and pay the subsidy.

*(Source: Title IV-E Adoption Assistance: Everything you always wanted to know but were afraid to ask, Part 1, 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 8.2A.1)*

- ☐ Fundamental in the discussion and negotiation of Title IV-E Adoption Assistance Agreements is the notification to the potential adoptive families of their right to a hearing if they believe that the agency's decisions or actions are unfair.
- ☐ Federal statute and regulations require that the State provide for an opportunity for a Fair Hearing before the State agency to any individual whose claim for Title IV-E benefits is denied or not acted upon with reasonable promptness. A Fair Hearing opportunity applies to a suspension, reduction, discontinuance, or termination of

assistance. With some exceptions, a hearing is not mandated if either State or Federal law requires automatic grant adjustments (such as an across-the-board reduction in foster care maintenance payments).

- ☐ Even after an adoption is finalized and an agreement signed, the State must provide adoptive parents with the opportunity for a Fair Hearing if their request for an adoption assistance increase is denied.
- ☐ Other grounds for a Fair Hearing for the adoption assistance program include, but are not limited to:
  - relevant facts regarding child/youth were known by the State agency or child-placing agency and not presented to adoptive parents prior to finalization of adoption.
  - failure by the State agency to advise potential adoptive parents about availability of Title IV-E Adoption Assistance for children/youth in the State foster care system.
  - denial of an adoptive parent's request for a change in payment level due to change in the needs of the child/youth's or the adoptive parents' circumstances.
- ☐ Turn to **Participant's Handout 6, *Dos and Don'ts in Preparing for a Fair Hearing***.
- ☐ This handout provides some dos and don'ts in preparing for an administrative hearing. Take five minutes to read the handout.

Trainer's  
Points



Handout

Handout 6



## 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 forward 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 might come up in your 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 forward. 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 after the initial hearing has been heard. Think of what the family might 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 family's 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.

*(continued on next page)*



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 might 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: The Fair Hearing Officer is there to hear the evidence provided, review the exhibits, and weigh the information before them. If your position cannot be supported by the facts, the Hearing Officer will rule in favor of the family.

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.



## Trainer's Points

- ☐ Any questions or comments?
- ☐ Turn to **Participant's Handout 7, *Steps in the Title IV-E Adoption Assistance/Subsidy Process.***
- ☐ Review the handout.



## 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.
7. Provide a copy of the Adoption Assistance Agreement and discuss it with the adoptive parents.



## Discussing Adoption Assistance with Older Children/Youth



### Team Activity (Optional)

#### Role Play: Discussing Adoption Assistance/Subsidy with Isaiah

- ☐ Now let's practice discussing adoption assistance with the older child/youth.
- ☐ This role play is designed to have you practice discussing adoption assistance/subsidy with an adolescent, Isaiah, who is worried that his prospective adoptive parents are motivated to adopt him for the "payment."
- ☐ We need you to get into three person teams. One person will be Isaiah; one will be Ms. Woodbridge, the adoption worker; and one will observe and record the exchange.
- ☐ The observer should record how Ms. Woodbridge begins the discussion, Isaiah's responses, the things Isaiah says that makes him feel that they only want him for the check, how Mrs. Woodbridge responds to each, and how the contact ends.
- ☐ Take about 5 minutes, change roles except for the observer, and repeat the exchange.
- ☐ The observer will report the approaches taken when the group reconvenes.
- ✓ Reconvene and ask teams to give responses. As each team reports, ask them to just add new responses to those already given.
- ✓ Summarize participants' responses and bring out any additional points not made by the teams:
  - Use of open-ended questions
  - Acknowledging feelings.
  - Pointing out realities of what the cost will be for activities, clothes, etc.



## Transition

- ◆ Are there any questions or comments on anything we have discussed?
- ◆ Next, we will focus on discussing and negotiating adoption assistance with prospective adoptive families. We will discuss motivation to adopt and its factors into the discussion and negotiation process. We will then complete an exercise to demonstrate how to isolate “needs” and “wants” of prospective adoptive parents as a way to help the discussion and negotiation process. We will also view a video of the adoption assistance discussion with the Williams family.



## Discussing Adoption Assistance with Prospective Adoptive Families



### Large Group Discussion

- ✓ The purpose of this large group discussion is to get participants thinking about the differences between foster and adoptive parents and how these differences could play out in the negotiation process.
- ✓ Ask participants the following questions and use easel paper to record discussion points:
  - **What are the differences between being a foster parent versus an adoptive parent? How might these differences impact discussing and negotiating adoption assistance?**
  - **What do you want to see come out of a negotiation and discussion of adoption assistance?**
  - **What are the agency's role, foster parent's role, and the prospective adoptive parent's role in the negotiation process?**



### Trainer's Points

- ☐ Turn to **Participant's Handout 8, *Motivation***. This handout provides some specific areas to discuss with pre-adoptive parents to give you and them a clearer understanding of their approach to and understanding of Title IV-E Adoption Assistance.
- ✓ Review it with participants.



Handout 8



## 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 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.

(continued on next page)



## 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? How has the family integrated the child/youth into the home?

## Adoption Triad

- The adoption triad includes birth parent(s), the adoptive parent(s), and the adopted child/youth.
- Revisit the adoption triad with the family, exploring grief and loss as related to the triad.
- 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?

*(continued on next page)*



- 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/youth's feelings/thoughts about being adopted?
- Does the child/youth want to be adopted?
- What concerns, if any, has the child/youth expressed regarding being adopted?





## Team Activity

- ☐ First, let's define “want and “need”:
- ☐ Agency staff typically want to meet the needs of adoptive families. They would also like to provide families with what they want. This exercise allows workers to think about their agency's philosophy and flexibility in their policy to negotiate an Adoption Assistance Agreement. Staff may never have talked about wants versus needs. The focus is on developing an Adoption Assistance Agreement that meets the needs of the child/youth.



## Directions

- ✓ Trainer draws on easel paper the following:

WANT	VS.	NEED
	N E G O T I A T E	



## Team Activity

- ✓ Divide participants into two groups—a wants and a needs group.
- ✓ Have participants in the “needs” group list the needs of the child/youth and the many ways or various resources available to meet each need. The outcome of the exercise is to negotiate how to meet the needs within the confines of the agencies limitations while being as flexible as possible.
- ✓ Have participants in the “wants” group list the prospective adoptive parent's wants.



## Team Activity

- ✓ Combine participants from the “wants” and “needs” groups into three or four teams and have each team negotiate an Adoption Assistance Agreement using the State’s policies on Title IV-E Adoption Assistance.
- Turn to **Participant’s Handout 9, *Steps to Negotiating Tile IV-E Adoption Assistance Agreement and Discussion of Medical Assistance***. This can be used to help with this assignment.
- ✓ Have each team report out its Adoption Assistance Agreement. If the teams don’t provide a policy basis for their decision, ask them to cite it.



## 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.

*(continued on next page)*



- 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.





## Transition

- ◆ Are there any questions or comments on anything we have discussed so far?
- ◆ In the next segment, we will look at a video showing pointers in negotiating and discussing adoption assistance.



## Video Description

### “Talking About Adoption Assistance” (23:49 min.)

- ☐ Mr. and Mrs. Williams, the foster parents of Isaiah and Michael Harris, have decided to adopt all three of the Harris children. In this video, they negotiate their subsidy needs with their adoption worker, Kate Woodbridge, to reach an Adoption Assistance Agreement under the Title IV-E Adoption Assistance Program. The video explains the implications of adoption versus foster care in terms of financial responsibility and outlines the eligibility for, provisions of, and limitations to the available adoption assistance.
- ☐ This is not the first time the Williams have heard about the Title IV-E Adoption Assistance Program. It was discussed with them during orientation/training and during the home study process.
- ☐ The children have been determined eligible for Title IV-E Adoption Assistance. Some States have their own State-funded Adoption Assistance programs and their policies and procedures for negotiating those agreements may look different from what is being illustrated in this video.

## Trainer's Points

- ☐ As you view the video, keep in mind the information we've discussed. Take notes of issues/concerns that you would like to review after the video in the context of your State's policies and procedures.
- ✓ Show the video.

## Large Group Discussion

- ✓ Debrief video:
  - What issues/concerns do you have?
  - What would you have done differently?
- ✓ Use the easel paper to record discussion points. The list should include:
  - Basic eligibility information, include identification of special needs category for each child.





#### Handout 10



- Subsidy is non-transferable.
- Subsidy is “to assist” with special needs.
- If the adoptive parents die, if the children/youth are Title IV-E eligible, and if they are readopted, the new adoptive parents can negotiate the subsidy.
- Children/youth are now “your children, with all the legal rights and responsibilities of all parents.”
- Special payments from foster care won’t follow into adoption unless they are written into the Agreement.

### Trainer’s Points

- ☐ Moving across state lines does not change the adoption assistance amount nor the state of origin’s payment responsibility.
- ☐ Turn to **Participant’s Handout 10, *Interstate Compact on Adoption and Medical Assistance and Medicaid* (ICAMA)** – continuance of Medicaid based on new State’s Medicaid plan. *(Note to trainer: As of this publishing, all States are a member with the exception of the following two states: (1) New York is currently an associate member and uses the ICAMA forms but has not passed enabling legislation to become an ICAMA member; (2) Wyoming.*
- ☐ You may review it at a later time.

### Transition

- ♦ Are there any questions or comments on anything we have discussed thus far?
- ♦ Next, you will have an opportunity to apply the knowledge and skills you have gained to specific case scenarios.



# INTERSTATE COMPACT AGREEMENT 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.

*(continued on next page)*



### **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.

*(continued on next page)*



(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 therefore, the adoptive parents of a child

*(continued on next page)*

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.

*(continued on next page)*



In this capacity, the Compact Administrator will be responsible for assisting child welfare 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.

*(continued on next page)*



(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.

(9/91)



# Case Scenarios: Applying Your Knowledge and Skills

## Trainer's Points

- ☐ This section allows for the following:
  - Practice your knowledge and understanding of Title IV-E Adoption Assistance Policy and procedures.
  - Practice negotiation skills.
  - Demonstrate understanding of the significance of laying groundwork for a Fair Hearing that occurs.

## Team Activity

- ✓ Divide participants into teams of three or four participants.
- ☐ Turn to **Participant's Handout 11, Case Scenarios**. Assign each team a scenario.
- ☐ Each team will review the assigned scenario and answer the questions at the end of the scenario.
- ☐ Teams can use the *State Policy Manual, Handout 1*, along with the *Title IV-E Adoption Assistance Eligibility Flow Chart, Handout 3*, to complete this exercise.
- ☐ Teams will have 20 minutes to complete the task.
- ☐ We will then reconvene and discuss as a group.

Trainer's  
Points



## 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?**

#### **Possible Response:**

1. *The child placing agency should ask the birth parents the following:*
  - A. *Does the birth mother or father have any Native American heritage? If yes, are you eligible to register with a Tribe? If the family is eligible, then the private agency must comply with the Indian Child Welfare Act.*
  - B. *Does the household currently receive TANF benefits? If so, please provide information to the family's worker.*
2. *Based on the information provided to the agency that the birth mother has a history of substance use during pregnancy, is there additional information that needs to be obtained like history of other substance use or information on prenatal care?*

*(continued on next page)*



### **Questions for the Placing Agency**

1. *Does the agency identify this child/youth as having special needs? If so, using the State's definition of special needs, does the agency have documentation to support their determination?*
2. *Has the agency contacted the State agency to establish that the child/youth is one with special needs?*
3. *What efforts have been made, by the agency, to identify an adoptive placement for this child/youth?*
4. *How has the agency shown that reasonable, but unsuccessful, efforts have been made to place the child/youth without adoption assistance?*

#### **● Is the child/youth eligible for Title IV-E Adoption Subsidy. Why or why not?**

#### **Possible Response:**

1. *No, this child is not eligible because using the Federal Title IV-E Adoption Assistance Eligibility Flow Chart the trainees would cite that:*
  - A. *There must be documentation that the child is eligible for AFDC or SSI to consider potential eligibility.*
  - B. *The scenario states that the birth parents live together; thus the household does not meet the criteria of eligibility of an absent parent for the deprivation factor of Title IV-A.*

### **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.*

*(continued on next page)*



- **What questions should the adoption subsidy office ask Ms. Riley?**

**Possible Response:**

1. *How has the adoptive parent maintained financial responsibility for the child/youth? The agency should ask for a copy of the Power of Attorney document, which will inform the agency whether the adoptive parent has inadvertently given up legal responsibility for the child/youth.*
2. *What documentation does the adoptive parent have to demonstrate that he/she continues to be financially responsible for the child/youth?*

- **Should the Title IV-E Adoption Assistance payments be interrupted? Explain your answer.**

**Possible Response:** *The State agency must refer to the Federal Policy Manual, Section 8.2D.5, that states the reasons by which a State may terminate an Adoption Assistance Agreement.*

1. *The child has obtained the age of 18, or the age of 21, if the State has determined that the child has a disability that warrants the continuation of a subsidy.*
2. *The State determines that the State is no longer legally responsible for the support of the child.*
3. *The State determines that the family is no longer providing any support for the child.*

- **What changes are warranted in the status of the subsidy case? Should the case be suspended? Should the case be terminated?**

**Possible Response:**

1. *The agency can initiate a dialogue with the adoptive family to renegotiate the Adoption Assistance Agreement. However, the family must be in concurrence with any changes or modifications.*
2. *The agency may not suspend an Adoption Assistance Agreement without the family's concurrence. (See Section 8.2B.9)*
3. *The agency may not terminate a subsidy without the concurrence of the adoptive family unless one of the three termination provisions in Section 8.2D.5 exists.*

*(continued on next page)*



### **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?**

#### **Possible Response:**

1. *The agency should consult with their agency's legal counsel before proceeding and provide documentation of the information on the situation. The agency should research their own state's statute and administrative rules concerning the matter. The agency should ask Mr. and Mrs. Wayfield for documentation that they are still legally responsible for the children and demonstrate that they have continued to be financially responsible for the children during the time the children were not living with them. Under the federal policy Section 8.2.B.1, birth parents are not eligible to receive adoption assistance benefits for their own children.*
- **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?**

#### **Possible Response:**

1. *Once fully informed about the situation, the agency should proceed with negotiating with Mr. and Mrs. Wayfield to discontinue the adoption assistance payments or negotiate a zero money payment. The agency must take into consideration the fact that Mr. and Mrs. Wayfield have expressed a desire to voluntarily relinquish their children. While they have stated they want to relinquish the children, they currently*

*(continued on next page)*



*continue to receive adoption assistance payments on their behalf and thus should demonstrate that they continue to be financially responsible for them. The agency must also consider Section 8.2.D.5 to address the reasons for terminating an Adoption Assistance Agreement.*

- **If Mr. and Mrs. Billings adopt the children/youth, are they eligible for adoption subsidy? Why or why not?**

**Possible Response:**

1. *Yes, Mr. and Mrs. Billing are potentially eligible for receipt of Adoption Assistance benefits for the children/youth. They would have to complete the State's process to be a viable adoptive family and the children would need to be placed with them for the purpose of adoption. Their previous Title IV-E eligibility would continue (as identified in Section 8.2.B.4).*
- **If adoption subsidy were approved for Mr. and Mrs. Billings, how would you facilitate the negotiations?**

**Possible Response:**

1. *The agency worker should refer to the Federal Policy Manual, Section 8.2.D.4 – Adoption Assistance Payment Rates. The agency should enter into negotiations with the new adoptive family concerning the needs of the children/youth and the circumstances of the family.*
- **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?**

**Possible Response:**

1. *The agency, should utilize its agency statute, administrative policy, and the Federal Policy Manual, Section 8.2.D.4, as it prepares for the negotiation with the family. The negotiator should take into consideration the “individual” needs of each child and the circumstances of the family during the establishing of the maintenance amount as each child/youth's needs are different from their sibling.*
2. *The payment that is agreed upon should combine with the parents' resources to cover the ordinary and special needs of the child/youth projected over an extended period of time and should cover anticipated needs.*

#### **Scenario #4**

*John and Wanda Downing adopted Jakki at age 13. Jakki is in the 11<sup>th</sup> grade and will have her 18<sup>th</sup> birthday next month. She has said that on her 18<sup>th</sup> 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.*

*(continued on next page)*



*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 18<sup>th</sup> birthday. They are also requesting an increase in 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.**

**Possible Response:**

1. *The agency must review Mr. and Mrs. Downing's Adoption Assistance Agreement to see whether the Agreement ends on the youth's 18<sup>th</sup> birthday or continues to age 21, based on the child/youth's special needs. If the agreement is due to terminate at age 18, then the agency must end the Agreement at that time, based on the Federal Policy, Section 8.2.D.5, which identifies the reasons a State may terminate an Adoption Assistance Agreement. ". . . Once an Adoption Assistance Agreement is signed and in effect, it can be terminated under three circumstances only. Namely, (1) if 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 . . ."*

- **If adoption assistance monies are continued, how should the request for an increase be negotiated?**

**Possible Response:**

1. *If the Adoption Assistance Agreement continues until this youth is 21, then the agency may take into consideration the current foster care rate and negotiate with the adoptive family. The agency should refer to the Federal Policy Manual, Section 8.2.D.4, which addresses this issue.*

## **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.*

*(continued on next page)*



*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 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.**

**Possible Response:**

1. *The agency should have documented that they explained to and offered the opportunity to apply for adoption assistance benefits. The agency staff should also have had the family sign a notarized statement declining the offer of benefits. (See Section 8.2.E)*
2. *The agency could have counseled the parents to sign a deferred agreement. This would have allowed the child to retain eligibility should there be a subsequent change in circumstances.*

- **Is Matthew eligible for Title IV-E Adoption Assistance? Why or why not?**

**Possible Response:**

1. *The agency is unable to approve Matthew's eligibility for adoption assistance since his adoptive family did not enter into an Adoption Assistance Agreement prior to the final decree of adoption. (See Section 8.4G). Additionally, the agency must inform the family that they have the right to request an Administrative Hearing before an impartial party. In many states it is a Fair Hearing Officer that will hear the case and determine, after reviewing the case and documentation, if the child/youth is eligible for benefits.*

*(continued on next page)*



#### **8.4 G Title IV-E, General Title IV-E Requirements, Fair Hearings**

- **Please explain the circumstances in which adoptive parents have the right to a Fair Hearing.**

##### **Possible Response:**

1. *Answer: Federal regulations at 45 CFR 1356.40(b)(1) require that the Adoption Assistance Agreement be signed and in effect at the time of, or prior to, the final decree of adoption. However, if the adoptive parents believe they wrongly have been denied benefits on behalf of an adoptive child, they have the right to a Fair Hearing. Examples of situations that constitute grounds for a Fair Hearing include: relevant facts regarding the child were known by the State agency or child-placing agency and not presented to the adoptive parents prior to the finalization of the adoption; denial of assistance based upon a means test of the adoptive family; disagreement by the adoptive family with the determination by the State that a child is ineligible for adoption assistance; failure by the State agency to advise potential adoptive parents about the availability of adoption assistance for children in the State foster care system; a decrease in the amount of adoption assistance without the concurrence of the adoptive parents; or denial of a request for a change in payment level due to a change in the adoptive parents' circumstances. In situations in which the final Fair Hearing decision is favorable to the adoptive parents, the State agency can reverse the earlier decision to deny benefits under Title IV-E. If the child meets all the eligibility criteria, 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. For example, if a Fair Hearing officer determines that a child would have been eligible for Supplemental Security Income (SSI) prior to the finalization of the adoption, FFP is available only if there had been eligibility documentation for the child from the Social Security Administration or its designee at that time. Accordingly, 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.*

Source: Child Welfare Policy Manual

Legal Reference: Social Security Act, Sections 471(a)(12) and 473

- **If Matthew is eligible, how should the negotiation of the adoption subsidy benefits be handled and what benefits should be approved?**

(continued on next page)



**Possible Response:**

1. *If Matthew is eligible, then the agency must proceed with negotiation with the adoptive family, taking into consideration the child/youth's needs and the family's unique circumstances. (See Federal Policy Manual, Section 8.2.D.4)*

- **How should the request for retroactive payments be addressed? Explain your answer.**

**Possible Response:**

1. *If the family prevails during the Fair Hearing process, the agency would be asked to include in its negotiation the effective date of the Adoption Assistance Agreement. After negotiation and signing the Agreement, the agency would pay adoption assistance payments based on the effective date of the Adoption Assistance Agreement.*

*If the family did not prevail in the Fair Hearing because the agency was able to document that they had informed the family of the availability of adoption assistance benefits, then the family would not be eligible for these funds.*

**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?**

**Possible Response:**

1. *The agency denied Mrs. Hawthorn's request on the basis that the Federal Child Welfare Policy Manual, Section 8.2D.4, cites that the Adoption Assistance Agreement cannot exceed the amount that the child/youth would be eligible for if they were in foster care. The agency should also refer to Section 8.4G to ensure they follow the process for the Fair Hearing.*

*(continued on next page)*



- **How should the adoption subsidy program prepare for the appeals hearing?**

**Possible Response:**

1. *The agency staff should obtain the following documentation: (1) the foster care rate at the time the child/youth was in foster care, (2) proof of why the child/youth was receiving that level of care based on the child/youth's needs while being served in out-of-home, (3) a copy of the child/youth's adoption assistance application which documents what his/her barriers to adoption were at the time which supported the level of subsidy provided, (4) the negotiation paperwork which clarifies the justification for the original or subsequent negotiation of the child/youth's needs, (5) the agency could request the family to provide an update from the child/youth's school, childcare provider, therapist, and pediatrician about the current level of care and or services needed for the child/youth, (6) the current foster care rate information and justification for the levels of care payments for children/youth with similar behaviors, and (7) records of children/youth at a similar age and behaviors and the agencies foster care payment for those children/youth.*

- **How do you think the appeals judge should rule?**

1. *The Appeals Judge should rule for the agency in this case because the Adoption Assistance benefits the family is receiving is the amount that the child/youth was eligible for if they were in foster care.*

**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.*

*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?**

**Possible Response:**

1. *The Adoption Subsidy Program denied the request on the basis that the child/youth was provided with Title XIX benefits and the adoptive father did not follow the*

*(continued on next page)*



*procedures to ensure that the Title XIX program would cover the costs. The Adoption Assistance Program is not required to cover benefits outside of the scope of the Adoption Assistance Agreement. Had Milton continued in foster care, the foster care agency would have utilized the Title XIX program to secure the necessary medical services to meet his needs.*

- **How should adoption subsidy prepare for the appeals hearing?**

**Possible Response:**

1. *The agency should secure the following documents: (1) a copy of the Adoption Assistance Agreement, (2) any written information that provided to Mr. Jackson about accessing services, (3) copies of the agency's written policies about adoption assistance benefits and any limits of liability, (4) a copy of any brochure/s that the State Medicaid agency provided to families when they receive benefits, (5) any letters that Mr. Jackson sent concerning his decision and the agency's written response, (6) written notes of consultation with the agency attorney to prepare for the case, and (7) previous case law concerning similar cases. (Note: This is privileged information and should not go to court, but the agency can have it in their file.)*

- **How do you think the appeals judge should rule?**

**Possible Response:**

1. *The Appeals Judge should rule in favor of the agency if their documentation is in order.*

*If the agency fails to prove their case due to poor documentation, then the Appeals Judge should rule in favor of Mr. Jackson.*

## **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.*

*(continued on next page)*



*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.*

- **Describe the negotiation process with Mr. and Mrs. Stapley.**

**Possible Response:**

1. *The agency should utilize its agency statute, administrative policy, and the Federal Policy Manual, Section 8.2.D.4, as it prepares for the negotiation with the family. The negotiator should take into consideration the "individual" needs of each child/youth and the circumstances of the family. Refer participants to **Handout #9, Steps to Negotiating Title IV-E Adoption Assistance Agreement and Discussion of Medical Assistance, pages 29-30, The Dance of Negotiation, pages 81-83, and the team activity, Want vs. Need, to guide the discussion regarding the negotiation process.***

- **What benefits should be approved for each child/youth and why?**

**Possible Response:**

1. *The determinations of each child/youth's benefits are based on the child/youth's respective needs, taking into consideration the "individual" needs of each child/youth and the circumstances of the family. An assessment of each child/youth is necessary to determine their respective needs at the time of reviewing the adoption assistance application. This includes, but is not limited to, a review of current/recent medical, educational, and psychological evaluations. The child/youth's current assessment guides the determination of benefits. Discussion regarding benefits for Jose, Juan, and Marissa should address the following:*
  - A. *Although Juan sight seems to be within normal range, a current assessment addressing the prognosis for his vision is warranted to determine future needs. Note, regardless of the prognosis, the adoption assistance records should document the condition of his eyes at birth as a pre-existing condition.*

*(continued on next page)*



- B. *Jose is currently wearing glasses. The prognosis for his vision is warranted to determine future needs. Note, regardless of the prognosis, the adoption assistance records should document the condition of his eyes at birth as a pre-existing condition.*
- C. *Marissa at the time of placement was diagnosed developmentally delayed and was receiving speech and language therapy. She is currently not receiving these services. An assessment of her current developmental growth and prognosis is needed. Note that regardless of the prognosis, the adoption assistance records should document the previous diagnosis as developmentally delayed as a pre-existing condition.*
- D. *Mr. and Mrs. Stapley have requested day care services to promote socialization skills for all three children. The decision to grant or deny this request is dependent upon agency and federal policy.*
- E. *The payment that is agreed upon for each child/youth 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. Mr. and Mrs. Stapley indicate their intention to use the adoption assistance payments to maintain the children's Hispanic heritage and culture. While their desire to travel to Mexico or South America and for the family to take Spanish classes may be admirable, these are "wants" of Mr. and Mrs. Stapley. The agency should utilize its agency statute, administrative policy, and the Federal Policy Manual, Section 8.2.D.4, to understand what allowable benefits are available for consideration.*

## **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.**

### **Possible Response:**

1. *The agency must first use its definition of special needs to determine if Michelle and Michael can be determined as special needs to meet program (See Federal Policy Manual, Section 8.2B.11) eligibility requirements. If the children/youth are eligible for benefits, the agency should then utilize its agency statute, administrative policy, and the Federal Policy Manual, Section 8.2.D.4, as it prepares for the negotiation*

*(continued on next page)*

with Ms. Warren. The negotiator should take into consideration the “individual” needs of each child/youth and the circumstances of Ms. Warren. Refer participants to **Handout #9, Steps to Negotiating Title IV-E Adoption Assistance Agreement and Discussion of Medical Assistance, pages 29-30, The Dance of Negotiation, pages 81-83, and the team activity, Want vs. Need**, to guide the discussion regarding the negotiation process.

- **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?**

**Possible Response:**

1. *The foster parent is expressing desire to adopt these children/youth. When foster parents or relatives are the adoptive placement, reasonable but unsuccessful efforts to place the children/youth without adoption assistance is not necessary.*
- **Should the agency consider placing the children with another family? Explain your answer.**

**Possible Response:**

1. *The agency, in determining the adoptive placement needs of the children/youth should carefully consider the best interest of them. The foster parent is expressing desire to adopt these children/youth. When foster parents or relatives are the adoptive placement, reasonable but unsuccessful efforts to place the children/youth without adoption assistance is not necessary.*
- **What benefits were approved for each child and why?**

**Possible Response:**

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

1. *The determination of each child/youth’s benefits is based on his/her respective needs, taking into consideration the “individual” needs of each child/youth and the circumstances of the family. An assessment of each child/youth is necessary to determine their respective needs at the time of reviewing the adoption assistance application. This includes, but is not limited to, a review of current/recent medical, educational, and psychological evaluations. The child/youth’s current assessment guides the determination of benefits. Discussion regarding benefits for Michelle and Michael should address the following:*
  - A. *The agency is must first use its definition of special needs to determine if Michelle and Michael can be determined as special needs to meet program eligibility requirements. (See Federal Policy Manual, Section 8.2B.11)*

(continued on next page)



*B. The agency should utilize its agency statute, administrative policy, and the Federal Policy Manual, Section 8.2.D.4, to understand what allowable benefits are available for consideration.*

Source: Child Welfare Policy Manual

Legal Reference: Social Security Act, Sections 471(a)(19) and 473 (c)



## Large Group Discussion

- ✓ Reconvene group.
- ✓ Read the scenario out loud before each team reports.
- ✓ Have the groups present the conclusions from each of the nine scenarios.
- ✓ Summarize the philosophy towards adoption subsidy/assistance that emerged from this activity.

## Transition

### *Wrap-up and Post Test*

- ◆ Address any remaining parking lot issues. This time can also be used to address any state-specific issues that haven't been woven into the overall training.
- ◆ Do you have any questions or comments on anything we have discussed?
- ◆ Ask participants to complete the post test.
- ◆ Thank them for their participation.



