

## PROCEDURE

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<b>Procedure Name:</b>	Title IV E Foster Care and Adoption Subsidy	
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<b>Applicable to:</b>	BFP and its Subcontracted Child Placing Agencies	

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PURPOSE: This operating procedure establishes the general requirements of compliance with the Title IV-E State Plan as this pertains to foster care services including eligibility under the Title IV-E Foster Care Waiver, public assistance and adoption services.

PROCEDURE:

**References:**

This operating procedure includes policy changes from the Deficit Reduction Act of 2005, the Adam Walsh Child Protection and Safety Act of 2006, the Title IV-E Foster Care Waiver, and foster care and adoption assistance improvement plans.

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## Chapter 1

### GENERAL REQUIREMENTS

1-1. Purpose. This operating procedure describes policy and procedures for determining Title IV-E eligibility for children in licensed out of home care and adoption assistance; for maintaining Title IV-E eligibility after initial determination; and for reporting, tracking, and claiming funds.

1-2. Scope. This operating procedure applies to all staff within the Department and contracted and subcontracted entities of the Department involved in the process of determining and maintaining Title IV-E eligibility. This includes child protective investigators; case managers for in-home services, out of home care, and adoption services; revenue maximization specialists; children's legal services attorneys; ACCESS Child in Care (CIC) public assistance specialists; and staff responsible for data management and fiscal operations.

1-3. Legal Authority.

a. Sections 471, 472, 473, 474, and 475 of the Social Security Act; 42 United States Code (U.S.C.) 671, 672, 673, 674, and 675.

b. Public Law 96-272, Adoption Assistance and Child Welfare Act of 1980, and amendments; Public Law 103-382, Multiethnic Placement Act of 1994, and amendment in Public Law 104-188, Removal of Barriers to Interethnic Adoption; Title IV, Part E; Public Law 105-89, Adoptions and Safe Families Act of 1997; Public Law 106-169, Chafee Independent Living Act of 1999; Public Law 109-171, the Deficit Reduction Act of 2005; Public Law 109-248, the Adam Walsh Child Protection and Safety Act of 2006.

c. Administration for Children and Families: information memoranda; policy interpretation questions; policy announcements; letter responses.

d. TitleIV-EState Plan: Foster Care and Adoption Assistance.

e. Title IV-A (AFDC) State Plan in effect on July 16, 1996.

f. 42 CFR, Subpart 435.115, Individuals deemed to be receiving AFDC.

g. 45 CFR, Parts 1355 through 1357, Foster Care Maintenance Payments, Adoption Assistance and Child and Family Services.

h. 45 CFR 233.110, Foster Care Maintenance and Adoption Assistance.

i. Section 1130, Social Security Act, Child Welfare Waiver Demonstration Project.

j. Administration for Children and Families, Children's Bureau, Waiver Authority, Florida Terms and Conditions, March 31, 2006.

k. Section 409.166, Florida Statutes (F.S.), children within the child welfare system; adoption assistance program.

l. Section 409.1671, F.S., foster care and related services; outsourcing.

m. Chapter 65C-16, Florida Administrative Code (F.A.C.).

1-4. Child Welfare Services Funded with Title IV-E.

a. Pre-Waiver. The Department claims Title IV-E funds for eligible children placed in fully licensed Title IV-E eligible facilities and for adoption assistance for special needs children in approved adoptive homes. The types of eligible licensed placements that qualify include foster family care homes, foster family group homes, medical or therapeutic foster homes, shelter homes or facilities, public facilities with 25 beds or less, and private (non-profit, or for profit) licensed child-caring/child-placing institutions. Placement and care responsibility for eligible children must be with the Department and its contracted agents, such as community-based care agencies. (NOTE: See Attachment 1 to this chapter for explanations of selected terms.)

b. IV-E Waiver. Florida received federal approval in March 2006 of a statewide waiver providing flexibility for Title IV-E Foster Care funds. The waiver allows federal Title IV-E foster care funds to be used for any child welfare purpose, rather than being restricted to licensed out-of-home care as generally required under federal law. It enables funds to be used for a wide variety of child welfare services including prevention, intensive in-home services to prevent placement of children outside of their home, reunification, and foster care. The five-year demonstration period began October 1, 2006. As of October 1, 2019 the Title IV-E waiver ended.

1-5. Federal Reimbursement. [42 U.S.C. 672(b), (c); 42 U.S.C. 673(a)(1)(B); 42 U.S.C. 675(3)(4); 45 CFR 1356.21,1356.40 and 1356.41] States may receive federal reimbursement (also known as Federal Financial Participation – FFP) for eligible costs.

a. Foster Care

(1) Pre-Waiver. Title IV-E foster care payments are made to licensed out-of-home care providers to cover:

(a) The cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to the child, and reasonable travel to the child’s home for visitation; and,

(b) In the case of residential group care, the reasonable costs of administration and operation of such facility necessary to provide the items noted under paragraph (a) above.

(2) Waiver.

(a) The waiver allows federal foster care funds to be used for any child welfare purpose rather than being restricted to licensed out-of-home care. Payments may be made to cover the cost of child welfare services such as prevention, intensive in-home services to prevent placement of children outside of their home, and reunification. Payments may also continue to be made for the same foster care costs allowable previous to the waiver, as noted in paragraphs 1-5a(1)(a) and (b) above. Details of the waiver and eligibility are described Chapter 4 of this operating procedure.

(b) Waiver funds should not be used for costs reimbursed through Medicaid for Medicaid eligible services.

b. Adoption Subsidy. Title IV-E adoption assistance payments are made to the adoptive parent(s) in amounts specified in the adoption assistance agreement (see Chapter 6 of this operating procedure). Maintenance adoption subsidy payments to the adopting parents and Medicaid benefits for the child become available at the point the adoption assistance agreement is signed by all parties and the child is placed in the adoptive home. The Title IV-E Foster Care Waiver does not affect adoption subsidy funding.

c. Non-Recurring Adoption Expenses. One-time payments of up to \$1,000 total may be made to adoptive parents or providers for items and services related to a special needs adoption around the

time of the adoption. Payments for non-recurring items and services are not restricted to Title IV-E eligibility or to receipt of a subsidy.

d. Administrative Costs. Costs necessary for the administration of the Title IV-E State Plan are reimbursable. Examples are:

(1) Operational costs include office supplies, postage, business equipment, insurance, and allowable attorney fees.

(2) Overhead and staff costs include salaries, fringe benefits, and payroll taxes.

1-6. Medical and Social Services. [42 U.S.C. 672(b) and (h); 42 U.S.C. 673(b)(1)(2) and (3)(B); 42 CFR 435.115] Any child for whom Title IV-E Foster Care and Adoption Assistance payments are made is deemed eligible for Titles XIX (Medicaid) and XX (Social Services).

1-7. Child Support Collections. [42 U.S.C. 671(a)(17)] States must take all appropriate steps to establish support obligations, and collect and distribute child support on behalf of a child receiving Title IV-E foster care maintenance payments.

1-8. Vouchering. Vouchering for all payments for Title IV-E eligible children must be done through the State Automated Child Welfare Information System (SACWIS), known as Florida Safe Families Network (FSFN). Expenditures must be coded in accordance with the Accounting Procedures Manual, 3 APM, Chapter 2, for draw down of Federal Financial Participation (FFP). (See the Accounting Procedures Manual, 3 APM 2, and the ICWSIS manual for instructions.)

1-9. Coding and Maintenance of Current Eligibility Status. The eligibility of all children in care (or receiving in-home services) must be accurately entered and maintained in the Florida Safe Families Network (FSFN) – State Automated Child Welfare System.

a. Eligibility Values in State Automated Child Welfare Information System (SACWIS). Each child's eligibility must be recorded in Florida's SACWIS system, Florida Safe Families Network (FSFN). The eligibility values and definitions for use in FSFN are incorporated in the FSFN online documentation.

1-10. File Retention. All Title IV-E foster care and adoption assistance records must be retained for at least seven years beyond case closure in accordance with pamphlet CFP 15-7 (under Family Safety Case Records). After receiving authorization from the Department of State as per CFOP 15-4, the record may then be destroyed and identifiers from automated records may be expunged.

a. Circumstances which require retention beyond the seven-year period include:

(1) Claim(s), negotiation(s), audit(s), or other action(s) initiated but not concluded; or,

(2) Information/documentation pertaining to lost benefits; or,

(3) For adoption records, the "record copy" (whether electronic, paper, or other format), which must never be destroyed; or,

(4) An adoption assistance file that contains ongoing Title IV-E adoption subsidy eligibility documentation: An adoption assistance file must be maintained for every child who receives or is expected to receive a Title IV-E adoption subsidy, medical subsidy, or Medicaid. The file must be maintained for at least three years beyond the child's 18<sup>th</sup> birthday, based on federal regulations. Since the adoption file and the foster care file are combined and prepared for permanent filing and are sealed after the adoption finalization, the information which documents the child's initial and ongoing adoption

assistance eligibility must be maintained in a separate file that remains accessible for review. (Refer to Attachment 3 to Chapter 6 of this operating procedure for file documentation requirements.)

NOTE: See pamphlet CFP 15-7 for other applicable retention periods.

b. Availability of Closed Foster Care and Adoption Records for the Purpose of Federal and State Audits. [Section 63.162, F.S.; Section 471(a)(8)(D), SSA; ACYF-PA-85-02] In order for the state to claim Title IV-E funding, foster care and adoption records (including sealed foster care and adoption records) must be available in the event of a federal Title IV-E eligibility review. According to federal policy, all payments made on behalf of the children whose records are not available for review upon request by federal reviewers will be disallowed. Associated administrative costs will also be disallowed.

1-11. Quality Assurance. The Office of Family Safety in collaboration with the Contract Oversight Unit will perform quality assurance and oversight functions of federal funding. Local and Regional Quality Assurance efforts are also encouraged to address the questions of (1) how Brevard Family Partnership oversees federal funding eligibility, and (2) how the Brevard Family Partnership's Quality Assurance Plans assure that federal funding eligibility claims are appropriate and accurate.

1-12. Confidentiality. [42 U.S.C. 671(a)(8), et al] Federal regulations limit the use of confidential information regarding Title IV-E to purposes directly related to the administration of the program. Other privacy and security requirements apply to individually identifiable information about children and families, such as HIPAA (42 U.S. Section 210 et seq, 45 CFR Parts 160, 162, 164) and CFOP 50-6.

**Article I. Title IV-E Terms and Explanations**

**EXPLANATION**

*Section 1.01 TERM*

Adoption	The act of creating the legal relationship between parent and child where it does not exist, thereby declaring the child to be legally the child of the adoptive parent(s) and their heir at law; and entitled to all rights and privileges and subject to all objections of a child born to such adoptive parents in lawful wedlock.
Adoption Assistance	Payments and services provided to a special needs child and his/her adoptive family, as specified in the adoption assistance agreement. Such assistance may include maintenance adoption subsidy (MAS), Medicaid, and reimbursement of non-recurring expenses associated with a finalized adoption.
Aid to Families with Dependent Children (AFDC)	Financial assistance funded under Title IV-A of the Social Security Act and provided to children who are deprived of the support and care of one or both parents; and who meet certain technical and financial requirements. Commonly referred to as “welfare” or “cash assistance”.  Under the Personal Responsibility and Work Opportunity Act of 1995, AFDC was discontinued and replaced by the Temporary Assistance to Needy Families (TANF) Block Grant. However, Title IV-E eligibility is based on previous AFDC eligibility criteria in the Title IV-A State Plan that was in effect on July 16, 1996.
Community Based Care (CBC) agencies	The community entities that provide child welfare services, including administrative and financial, under contract to the Department. May also include subcontracts under the lead agency’s oversight.
Consolidated Need Standard (CNS)	The 1989 Florida Legislature set the Consolidated Need Standard as the amount recognized by the Federal Poverty Income Guidelines. The CNS takes into consideration certain basic needs of applicants and recipients. These include food, household supplies, personal care items, transportation, clothing, and utilities. (See Attachment 1 to Chapter 5.)
Department	The Department of Children and Families.
Date of Entitlement	The date on which the state becomes entitled to claim federal reimbursement.
Deprivation	Deprivation means that a child is living without the support and care of one or both parents due to continued absence from the home because of death, separation, divorce, or incarceration; or incapacity, unemployment or underemployment. (See Attachment 2 to Chapter 5 for more information.)
Entity	Any organization or agency (for example, a private child placing agency) that is separate and independent of the state agency; that performs Title IV-E functions pursuant to a contract or subcontract with the state agency; and that receives Title IV-E funds.
Family Safety staff	Department of Children and Families employee(s) assigned to the Office of Family Safety or designated contract provider.



## EXPLANATION

### Section 1.01 TERM

Foster Care Maintenance Payments	Payments to cover the cost of (and cost of providing) food, clothing, shelter, daily supervision, school supplies, personal incidentals, liability insurance with respect to a foster child and reasonable visitation. In the case of institutional care, the term includes the reasonable costs of administration and operation of the facility, which are necessary to provide the items listed in the preceding sentence.
Medicaid	Medical assistance funded under Title XIX of the Social Security Act that provides basic health care to various coverage groups.
Need	Refers to the financial need of the child and/or family.
Out-of-Home/ Out-of-Home Care	Twenty-four hour out-of-home care for children placed away from their parents or guardians and for whom the Department has placement and care responsibility. <b>NOTE:</b> Out of home care is provided by someone other than a biological or legal parent.
Reimbursability	The ability to claim federal reimbursement based on the child and family meeting all eligibility requirements, in addition to the child's placement in an eligible, licensed home or facility.
Removal Home	The family setting from which the child was first legally removed. This includes a relative's or non-relative's home, if such person had assumed and continued to exercise day to day responsibility for the care and control of the child prior to court involvement.
Specified degree of relationship	The following relatives meet the specified degree of relationship for the purposes of this operating procedure. The degree of relationships below includes the marital kinship even if the marriage ended in death or divorce: <ul style="list-style-type: none"><li>- Mother</li><li>- Father, legal or biological (NOTE: A non-judicial determination of paternal relationship must be made on the natural, biological father or his relatives as listed herein.)</li><li>- Brothers, sisters (including those of half blood)</li><li>- Aunts, uncles, nieces, nephews</li><li>- Grandparents, great-grandparents</li><li>- First cousins (and first cousins once removed)</li><li>- Stepfather, stepmother, stepbrother or stepsister.</li><li>- (Note: The parent of a stepparent is not a specified relative.)</li><li>- Person who legally adopts a child, as well as the natural and other legally adopted children and other relatives of the adopted parents, as long as they are within the specified degree.</li><li>- Legal spouses of any persons named in the above groups even though the marriage terminated by death or divorce.</li><li>- Individuals of preceding generations as denoted by prefixes such as grand, great, and great-great.</li></ul>

**EXPLANATION**

*Section 1.01 TERM*

Termination of Parental Rights (TPR)	A legal proceeding which terminates the parents' rights to their child and frees the child for adoption. Also referred to as a permanent commitment.
Title IV-E Foster Care Waiver	Florida received federal approval in March 2006 of the first statewide waiver providing flexibility for Title IV-E Foster Care funds. The Department of Health and Human Services' Administration for Children and Families (ACF) authorized the five-year waiver allowing Florida to demonstrate that flexibility in funding will result in improved services for families. The waiver was implemented on October 1, 2006 and is approved through September 30, 2011. See Chapter 4 of this operating procedure.
Voluntary Placement	An out-of-home care placement of a child requested by the parents or legal guardians, without court involvement.
Voluntary Relinquishment	Permanent commitment of child by the parent(s) to the Department or to a child placing agency for the purpose of adoption.

## Chapter 2

### TITLE IV-E STATE PLAN COMPLIANCE

2-1. Overview. States receiving federal funds must have an approved Title IV-E State Plan that establishes program guidelines for the funding source. State Plan requirements include certifications by the agency that it will have a program that conforms to the statutory provisions of federal law. This chapter explains the state plan requirements and certifications necessary for compliance.

2-2. The Adoptions and Safe Families Act of 1997 (ASFA). ASFA was designed and intended to reform the current child welfare system and balance the safety, permanency and well being requirements for children in out-of-home care. Key provisions of the law that enter into eligibility decisions relate to Safety of the Child, Reasonable Efforts, and Permanency of the Child, as follows:

a. Safety of the Child. The legislation makes it clear that the safety and health of the child must be the paramount concerns that underlie all child welfare decisions and services. ASFA requires that the court evaluate the Department's reasonable efforts in light of the child's health and safety.

b. Reasonable Efforts. ASFA further defines and clarifies "reasonable efforts" to prevent the child's removal (preserve families), to reunify the child and family and to make and finalize an alternate permanent placement when reunification is not possible. "Reasonable Efforts" refers to the exercise of reasonable diligence and care to provide services to the child and family while ensuring the health, safety and permanence of the child. Judicial determinations of reasonable efforts must be explicit and made on a case-by-case basis.

(1) There are three types of reasonable efforts:

(a) Reasonable efforts must be made to maintain the family unit and prevent the unnecessary removal of the child from his/her home, as long as the child's safety is assured.

(b) Reasonable efforts must be made to effect the safe reunification of the child and family. Reasonable efforts to finalize an alternate plan may also be made concurrently with reasonable efforts to reunify.

(c) When it is determined that reunification is not possible, reasonable efforts must be made to place the child in another planned permanent home (known as "reasonable efforts to finalize the permanency plan" or REFPP). The steps necessary to finalize the permanent placement of the child must be documented. For example, when the permanency goal is adoption, at a minimum documentation must include child-specific recruitment efforts, such as the use of state, regional and national adoption exchanges.

NOTE: While there are three types of reasonable efforts, there are only two types of required judicial findings of reasonable efforts. These are (a) the court must find that there have been reasonable efforts to prevent placement and (b) there have been reasonable efforts to finalize a permanency plan.

(2) Reasonable efforts to prevent the removal and to reunify are not required if a court has determined that there were "aggravated circumstances." Aggravated circumstances are referred to as "egregious conduct" in section 39.806(1)(f)(g), F.S. Specifically, "aggravated circumstances" include abandonment, torture, chronic abuse, and sexual abuse. Reasonable efforts are not required if the parent has:

(a) Murdered or committed voluntary manslaughter of another sibling of the child; or,

(b) If the parent has aided, abetted, attempted, conspired or solicited to commit such a murder or voluntary manslaughter; or,

(c) If the parent has committed felony assault resulting in serious bodily injury to the child or another sibling; or,

(d) If the parental rights of the parent to a sibling have been involuntarily terminated.

c. Permanency of the Child. Since out-of-home care is a temporary setting, ASFA includes a number of provisions that set time limits for making permanency planning decisions for the child, and that promote the adoption of children who cannot safely return to their homes

(1) A permanency hearing must be held:

(a) No later than 12 months after a child enters out-of-home care and every 12 months thereafter as long as the child is in out-of-home care. The first 12-month permanency hearing is calculated from the date that the court places the child into out-of-home care. Subsequent permanency hearings are to be held 12 months from the last permanency hearing.

NOTE: When a case plan with a goal of reunification is extended beyond the 12-month hearing, the case plan must include the steps being taken to locate an adoptive home or other permanent living arrangement as cited in section 39.621, F.S.

(b) Within 30 days after the court's determination that reasonable efforts to reunify are not required.

(2) The permanency plan for a child must include whether and when the child will be returned to the parent(s), placed for adoption, or placed with a permanent guardian. The permanency plan must also document the steps necessary to finalize the permanent placement of the child.

(3) A petition must be filed for termination of parental rights when a child is determined to be an abandoned infant, or when the court has found that the parent has committed murder, voluntary manslaughter, or felony assault resulting in serious bodily injury to the child or to another sibling of the child, or the parental rights of the parent to a sibling have been terminated involuntarily ("aggravated circumstances" as in paragraph 2-2b(2) above).

d. Health care insurance coverage or Medicaid must be provided for all adopted special needs children.

e. Procedures must be in place for criminal and abuse registry records checks for prospective foster and adoptive parents to be conducted prior to the time a child is placed with the prospective parents.

f. Plans for effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements must be in effect. A state receiving Title IV-E funds may not deny or delay the placement of a child for adoption when an approved family is available outside the jurisdiction responsible for handling the child's case. The opportunity for a fair hearing must be granted to an individual who alleges denial of adoption approval due to the fact that they reside outside of the jurisdiction responsible for placing the child. Loss of Title IV-E funds will occur when the state fails to grant an individual an opportunity for a fair hearing.

g. Case plans must assure that the child will receive safe and proper care and that services provided to all parties meet the goals established for the child and family. This includes a discussion of the appropriateness of the services provided to the child under the plan.

h. Any child, age 16 or over, must have a written description of programs and services that will assist them in preparing to transition from foster care to independent living.

i. The child/youth, parent(s), foster parent of a child and any pre-adoptive parent or relative caregiver must receive notice of all review hearings and must be given an opportunity to be heard at permanency hearings and all other judicial review hearings held on behalf of the child.

2-3. Maintaining Title IV-B Compliance. Title IV-E also requires that the state maintain compliance with all Title IV-B protections for children in out-of-home care. These protections include:

a. A current case plan must be in effect and developed according to federal and state laws.

b. Timely judicial reviews of the child's case must be held.

(1) The initial judicial review must be held no later than 90 days after the date of the disposition hearing or after the date of the hearing at which the court approves the case plan, whichever occurs earlier; but in no event shall the review be held later than 6 months after the date of the child's removal from the home.

(2) Judicial reviews must be conducted every 6 months after the initial review, or more frequently if the court deems necessary.

c. The court must review the child's status to determine the safety of the child, the continuing necessity for and the appropriateness of the placement, the extent of compliance with the case plan, the extent of progress made toward resolving the issues necessitating the child's placement in out of home care, and a likely date of return to his/her home if the permanency goal is reunification. When the case plan goal is not reunification, a likely date that the child will be placed for adoption or with a legal guardian must be projected at the judicial review hearing.

d. If the Department and the court have established a formal agreement that includes specific authorization for particular cases, the Department may conduct administrative reviews instead of the judicial reviews for children in out-of-home care. The following guidelines must be followed:

(1) Notices of such administrative reviews must be provided to all parties.

(2) An administrative review must not be substituted for the first judicial review, and in every case the court must conduct a judicial review at least every six months.

(3) Any party dissatisfied with the results of an administrative review may petition for a judicial review.

2-4. Provisions of the Multiethnic Placement Act and the Interethnic Adoption Provisions (MEPA-IEP). [45 CFR 1355.38; 422(6)(a) and 471(a)(18), SSA]

a. Title IV of the Social Security Act has always prohibited discrimination based on race, color or national origin. The Multiethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996 (collectively known as MEPA-IEP) focus attention on similar aspects of foster and adoptive placements. These acts were congressional attempts to move children through the foster care system, to eliminate biases in foster care and adoption placements, and aid in the recruitment, training and utilization of foster and adoptive parents from every race, color and national origin. The ultimate goal of

MEPA is to decrease the length of time that children wait to be adopted and to ensure that children are expeditiously placed in permanent and safe homes. Beginning January 1, 1997, neither the Department nor its contracted agents that receive funds from the federal government and are involved in adoption or foster care placements may:

(1) Deny any person the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the person, or of the child involved; or,

(2) Delay or deny the placement of a child for adoption or into foster care, on the basis of race, color, or national origin of the adoptive or foster parent or the child involved.

b. Placement Guidelines. The child's placement for adoption or foster care must not be denied or delayed on the basis of race, color, or national origin of the prospective adoptive or foster parent of the child involved. In order to insure that MEPA-IEP requirements are not violated the following are recommended guidelines for placement.

(1) Assess the individual placement needs of the child by taking into consideration the child's individual needs and best interests.

(2) Assess the available families' ability to meet the specific needs of the child by considering:

(a) The capacity of the prospective family to meet the child's emotional, psychological, educational, developmental, and medical needs, including those related to the child's racial, ethnic and/or cultural background, as appropriate.

(b) The prospective family's feelings, capacities, preferences, and attitude as these relate to their ability to nurture a child of a particular background.

(c) The prospective family's expressed preferences and interests regarding their ability to foster or adopt a child of a particular background.

(d) The prospective family's ability to cope with the particular consequences of the child's developmental history and to promote the development of a positive self-image.

(e) The family's ability to nurture, support, and reinforce the racial, ethnic or cultural identity of the child and to help the child cope with all forms of discrimination that the child may encounter.

(3) The final selection should be made by identifying which family is most likely to meet all of the child's needs. Since no two families are the same, there is usually at least one distinguishing factor in a family's ability to care for a particular child; however, race, color, or national origin cannot be the distinguishing factor.

(4) Other guidelines include:

(a) The Department or its designees may not honor a request by the biological parent(s) regarding placement preferences for their child based on race, color, or national origin.

(b) Religious preferences are not covered in MEPA-IEP, unless a particular religion discriminates based on race, color, or national origin.

(c) MEPA-IEP does not prohibit kinship or relative placement preferences. The exception is when the child's placement is delayed while an extended search is made for a suitable relative that will take the child when another family is available and can meet the child's needs.

(d) The case file must document the steps taken to identify an appropriate foster or adoptive placement for the child and the reason(s) for the selection of a particular family.

c. The Department of Health and Human Services (HHS) makes it clear that MEPA-IEP violations include denials overtly based on race, color, or national origin, as well as using other arbitrary and prohibitive standards. Prohibitive standards include those related to age, income, education, family structure and size, or ownership of housing, when they do not have an impact on the ability of the prospective family to meet the needs of the child.

d. Diligent Recruitment. MEPA-IEP requires states to recruit potential families that reflect the ethnic and racial diversity of children needing foster and adoptive placements. HHS recommends that states develop recruitment plans that include the following characteristics.

(1) The plan should focus on developing a pool of potential foster and adoptive parents that are willing and able to foster or adopt the children needing placement.

(2) The plan should include both general and targeted activity. General recruitment activities make use of radio, television, and print media to disseminate information. Targeted recruitment activities include dissemination of information in specific communities, and the development of partnerships with community and religious groups to make waiting children more visible and to identify and support prospective adoptive and foster parents.

(3) The plan should include activity to provide potential foster and adoptive parents with information about the characteristics and needs of the available children, the nature of foster care and adoption and supports available to foster and adoptive parents.

## 2-5. Compliance Reviews.

a. CFSR Reviews. The Administration for Children and Families (ACF) will conduct full child and family service reviews (CFSR) in each state to assess conformity with Titles IV-B and IV-E state plan requirements. The CFSR consists of a statewide self-assessment and an on-site review related to specific outcomes for children and families. ACF will determine the state's substantial conformity by its ability to achieve specific outcomes in the following areas.

### (1) Child Safety.

(a) Children are first and foremost protected from abuse and neglect; and,

(b) Children are safely maintained in their own homes whenever possible and appropriate.

### (2) Permanency.

(a) Children have permanence and stability in their living situations; and,

(b) The continuity of family relationships and connections is preserved for children.

(3) Child and Family Well-Being.

- (a) Families have enhanced capacity to provide for their children's needs; and,
- (b) Children receive appropriate services to meet their physical and mental health needs.

b. Title IV-E Compliance Reviews. The Administration for Children and Families will conduct Title IV-E eligibility reviews in each state. The reviews assess the state's compliance with Title IV-E eligibility criteria and provide technical assistance on the proper application of Title IV-E criteria.

(1) The criteria used to assess Title IV-E foster care eligibility include:

- (a) Judicial determinations – “contrary to the welfare” and “reasonable efforts.”
- (b) Voluntary Placement Agreement with appropriate judicial determinations within 180 days from the date the agreement was signed by all parties.
- (c) Placement and care responsibility vested with the Department.
- (d) AFDC eligibility (July 16, 1996 criteria) of the family and child at removal based on meeting the financial and technical requirements.
- (e) Child is in a fully licensed home or facility.
- (f) Licensing file has complete licensing history.
- (g) Documentation of compliance with safety requirements.
- (h) The focus will be Title IV-E foster care maintenance payments. The cases to be sampled will be pulled from Adoption & Foster Care Analysis & Reporting System (AFCARS).

(2) The criteria to assess Title IV-E adoption assistance are addressed in Chapter 6 of this operating procedure.

c. MEPA-IEP Compliance Reviews.

(1) The Administration of Children and Families and the Office of Civil Rights will jointly play a role in the compliance and enforcement of MEPA-IEP requirements. MEPA-IEP provides two vehicles for enforcement of its prohibitions against discrimination in adoption or foster care placement.

(a) First, any individual aggrieved by an action he/she believes constitutes discrimination has a right to bring action seeking equitable relief in a United States District Court of appropriate jurisdiction.

(b) Secondly, a violation may be identified through compliance reviews of Federal Financial Participation (FFP) such as ASFA, Title IV-E, Medicaid, etc.

(2) The critical elements to consider for compliance with the intent of MEPA-IEP are:

(a) No delays or denials in placing children who need adoptive or foster homes. Children cannot linger in out of home care until a family is found for them that meets or matches the race, color, or national origin of the child to the family. There should be no predetermined placement preferences or priorities based on race, color, or national origin. For example, the Department or its contracted agent must not establish a routine set of placement preferences where race, color, or



national origin is a factor in placement decisions. Discrimination directed towards adults who wish to serve as foster or adoptive parents, towards children who need safe and appropriate homes, or towards communities or populations that have been under-utilized as a resource for placing children will constitute a violation of the MEPA-IEP requirements.

(b) Consideration of race, color, or national origin must be routinely narrow. Consideration of these factors must be done on an individualized, case-by-case basis where special circumstances indicate that such consideration is warranted. Additionally, the consideration must be narrowly tailored to advance the child's best interests, in light of a specific prospective adoptive or foster care parent's capacity to care for the child. An example of this instance may be a child of the age of consent who refuses or does not want to be placed in a setting other than one of his/her own race. The child's Family Safety/Community-Based Care case manager should have further discussions with the child to point out the consequences of his/her decision, such as indefinitely lingering in out-of-home care and the child's need for permanency and long term family connections.

(c) The child's best interests must be the paramount concern when seeking a placement for the child. An assessment of the prospective foster or adoptive family's capacity to meet the individual needs of the specific child is an essential element in making a placement decision.

(d) Diligent recruitment of potential foster and adoptive parents that reflect the ethnic and racial diversity of the children for whom foster and adoptive homes are needed is both a legal requirement and "best practice" when making a placement decision.

## Chapter 3

### FOSTER CARE SERVICES

3-1. Title IV-E Foster Care Services and the Waiver. This chapter describes general requirements and provides guidance for federal funding eligibility. Please note that while some of these requirements are suspended under the IV-E waiver (see Chapter 4 of this operating procedure), these provisions continue to support IV-E and Medicaid eligibility.

3-2. Child in Care Title IV-E and Medicaid Application. The child's eligibility for Medicaid is determined by an ACCESS Florida CIC specialist using the Child in Care Medicaid Application (form CF-ES 2626A) or the Child in Care Medicaid Application (form CF-ES 2293), as appropriate. Both of these forms are available in DCF Forms on either the Intranet or Internet.

a. The Child in Care Medicaid Application, Form CF-ES 2293. The Child in Care Medicaid Application (form CF-ES 2293) is used in cases where Medicaid only is being requested. It is used by Community-Based Care, Department of Juvenile Justice which includes Children in Need of Services and Families in Need of Services (CINS/FINS). Within the Family Safety program, form CF-ES 2293 is specifically used to capture information pertinent to emergency Medicaid eligibility determination. This form must be completed within forty-eight (48) hours of the child's entry into out-of-home care. Children removed from their homes for reasons of abuse or neglect must have an expeditious determination of Medicaid eligibility so that they may receive the initial medical examination. This includes children placed in non-licensed settings.

b. The Child in Care Title IV-E and Medicaid Application, Form CF-ES 2626A. Form CF-ES 2626A is designed to capture the information necessary to process and the appropriate category of Child in Care Medicaid. The Child in Care Medicaid Application, form CF-ES 2626A, must be completed within five (5) working days of the child's entry into out-of-home care. Each region/circuit/CBC must establish processes to ensure the timely completion and processing of the Application. The processes should include gathering legal, demographic, financial, and household composition information.

(1) The Declaration of Citizenship, form CF-ES 2058 (available in DCF Forms) must be completed and attached to the CF-ES 2626A. See also the discussion in Chapter 5 of this operating procedure.

(2) Attachment 1 to this chapter, the Title IV-E Foster Care Checklist, will assist revenue maximization in gathering necessary information in support of eligibility.

3-3. Responsibility for Screening and Completing the Application. Region/circuit/CBC processes must address who has primary responsibility for completion of the Child in Care Medicaid Application for the eligibility determination. The completed form is submitted to the Child In Care (CIC) unit in the Office of ACCESS Florida for eligibility determination.

3-4. Notice of Case Action. A Notice of Case Action is generated by the ACCESS Florida Child in Care specialist (CIC) declaring the child's Medicaid eligibility or ineligibility. The Notice of Case Action is a manually written notice (form CF-ES 2629; available in DCF Forms) and includes, at a minimum, the child's name, case number, eligibility status, Medicaid number, basis of eligibility determination (i.e., how deprivation and financial need met), and date of next redetermination.

a. Approval or Denial.

(1) Whether the application is approved or denied, the CIC worker issues a Notice of Case Action to the person who signed the application. A copy of the notice is kept in the child's file and must be available for audit purposes.

(2) If the application is denied, the notice gives the reason(s) for denial, informs the applicant of his/her right to a fair hearing, and provides the name of the person to contact to request a fair hearing.

b. Hearings. When an individual is not satisfied with the action taken on his/her application, the individual may request a hearing before a state hearing officer.

(1) Request for a Hearing.

(a) A hearing request must be made within 90 days of the receipt of the Notice of Case Action.

(b) The request must be submitted to the CBC case management office responsible for handling the case.

(c) The request may be either written or verbal. If written, it must be signed and dated, and include a statement explaining the need for a hearing. If verbal, the CBC staff person taking the request should document the information, including the staff's understanding of the reason for the request. Case Management staff is permitted to assist the requester with the hearing request.

(d) The hearing request must be date-stamped to indicate the day of receipt by the CBC. This confirms that the request was received within the 90-day limit.

(e) When the hearing request is received, the unit supervisor must forward the request and a brief statement explaining the need for the hearing to:

Department of Children and Families  
Office of Appeal Hearings (OSIH)  
1317 Winewood Boulevard  
Tallahassee, FL32399-0700

(f) A copy of the hearing request and the statement of need must be placed in the child's file for documentation purposes.

(g) When the unit supervisor receives the hearing request, arrangements are made immediately for an interview with the requester to determine if the issue can be resolved at the local level. The supervisor reviews the case record prior to the interview to evaluate the original decision for accuracy. The interview includes discussion of the requester's complaint and dissatisfaction. If the supervisor determines that the agency made an error, corrective action must be immediately taken.

(h) After the supervisory interview, the requester may withdraw or continue with the hearing request. If the request is withdrawn, a signed, written withdrawal statement is obtained and forwarded to the Office of Appeal Hearings within two (2) working days and a copy filed in the child's file.

(2) Hearing Process. The hearing officer notifies the requester of the time and place of the hearing and conducts the hearing.

(a) Written notification is sent to the requester and the lead agency of the date, time and place of the hearing.

(b) When the region/circuit/CBC agency is advised of any hearing decision, region/circuit/CBC agency administration submits a report to the headquarters Office of Family Safety, Interagency Management unit. The report advises of the hearing request and the outcome of the hearing. A copy of the final order must accompany the report.

(c) Priority is given to hearing decisions that require action to authorize payment(s).

3-5. Title IV-E Technical and Financial Requirements. At the time of removal, the child must meet AFDC technical and financial eligibility requirements, according to the Title IV-A State Plan in effect on July 16, 1996. If a child was eligible to receive AFDC at the time of removal, he/she has met the financial and technical criteria for Title IV-E eligibility. (NOTE: AFDC should not be confused with Temporary Cash Assistance or TANF because the eligibility requirements differ.)

a. Technical requirements include Florida residency; citizenship or qualified non-citizen status; specified degree of relationship, age, and deprivation; and welfare enumeration (provision of a Social Security Number, or SSN). (Refer to Chapter 5 of this operating procedure for specific information on technical requirements.)

b. Financial requirements include:

(1) Asset Limit. Neither the child nor the family may have an accumulation of more than \$10,000 in countable and accessible assets.

(2) Income Limit. First, the family must not have gross income (less appropriate income disregards) in excess of the Consolidated Need Standard (CNS). If the family is eligible, the child must not have income in excess of 185% of the foster care board rate. (See Attachment 1 to Chapter 5 for CNS amounts.)

3-6. Judicial Requirements.

a. "Contrary to the Welfare" Judicial Finding.

(1) A judicial finding of "contrary to the welfare" must be made at the first court hearing that approves/sanctions the removal of the child from the home.

(a) Effective **March 27, 2000**, to meet Title IV-E requirements, a "contrary to the welfare" finding must be in the first court order that sanctions the child's removal from his/her home.

(b) For removals **prior to March 27, 2000**, a petition must have been filed with the court containing "contrary to the welfare" or "best interest" language no later than six months from the date the child last lived with a specified relative. When the petition is filed within six months of the removal of the child from a specified relative, the ability to claim federal funds is preserved until the

judicial finding of “contrary to the welfare” is obtained. However, Title IV-E funds must not be claimed prior to the judicial finding of “contrary to the welfare.”

EXAMPLE: A child is removed from his/her mother on March 2, 2000. A petition with “contrary to the welfare” language is filed with the court on August 26, 2000. A judicial finding (court order) of “contrary to the welfare” is obtained on September 15, 2000. Title IV-E may be claimed beginning September 15, 2000 (provided all other eligibility requirements are met) because the petition with the appropriate language was filed with the court within six months of the child’s removal from a specified relative.

(2) The written finding or court order should include language that remaining in the home is “contrary to the welfare” of the child, or that placement in out of home care is in the “best interest” of the child. Judicial findings must be made on a case-by-case basis per the individual circumstances of the child. The “contrary to the welfare” finding suggests that the child’s current situation is not safe or suitable and is not in the child’s best interest. Examples of acceptable substitutions that will meet the “contrary to the welfare” and “best interest” judicial finding requirement for Title IV-E include:

(a) The child has no parent, guardian, or legal custodian to provide for his/her care and supervision.

(b) The release of said child (back to the removal home) will present a serious threat of substantial harm to the child.

(c) The parent, guardian, or legal custodian is not willing to take custody of the child.

(d) A manifest danger exists that the child will suffer serious abuse or neglect if he/she is not removed from the home.

(e) The conflict that exists cannot be resolved by delivery of services to the family during the continuous placement of the child in the parent’s home.

(f) Remaining in the home would be inimical to the welfare of the child.

(3) Court orders that reference a state law to substantiate judicial determinations are not acceptable even if state law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child’s welfare or that removal can only be ordered after reasonable efforts have been made. In keeping with this mandate the following statements **are not acceptable** “*contrary to the welfare*” language.

(a) The child’s removal was pursuant to the intent of Chapter 39, Florida Statutes.

(b) The child was removed according to criteria provided by law.

(c) There is probable cause to believe the child is dependent.

(4) Courts have the authority to enter a nunc pro tunc order to supply, for the record, something that actually occurred but was omitted from the record through inadvertence or mistake. However, effective March 27, 2020, the use of nunc pro tunc orders to pre-date the performance of an act to a time before it actually occurred is not allowed for purposes of Title IV-E. Therefore, if the required judicial determination is not included in the appropriate court order, a transcript of the court proceedings is the only other acceptable documentation to verify that the required judicial determination was made. Documentation to back up this finding must be placed in the child’s file.

(5) When children are placed in licensed out-of-home care pursuant to a voluntary licensed placement agreement, that agreement stands in the place of a court finding of “contrary to the welfare” for the first 180 days. Title IV-E federal claiming may begin on the first day of voluntary licensed placement if all parties have signed and if all eligibility criteria are met. For any child who is placed voluntarily, the court must determine within 180 days of the agreement that it is in the best interest of the child to remain in out of home care. The clock begins on the date of the signature on the voluntary licensed placement agreement, or the date of the child’s placement, whichever is first. If a “contrary to the welfare” finding is not obtained from the court within 180 days, the child is not Title IV-E eligible beyond the first 180 days and federal claiming must cease. If the “contrary to the welfare” order lacks “reasonable efforts” language, the child will not be eligible until that language is obtained per guidelines listed below. See paragraph 3-11 of this operating procedure for more on voluntary licensed placement agreements.

b. “Reasonable Efforts” Judicial Finding. At the time of removal, the court must make a judicial finding that the Department has made reasonable efforts to prevent the unnecessary removal of the child, or that reasonable efforts were not required. If the child remains in out-of-home care for more than twelve months, the court must also make a finding that reasonable efforts have been made to reunite the child with his/her family OR have been made to finalize alternate permanency plans in a timely manner when reunification is not possible.

(1) For a child to be initially eligible for Title IV-E funding, federal law requires the courts to make a finding with regards to the child’s removal that:

(a) Reasonable efforts were made to prevent or eliminate the need for removal of the child; or,

(b) No efforts at the time of removal could have ensured the child’s safety in the home; or,

(c) No reasonable efforts are required to prevent the removal or to reunify the family.

(2) Effective **March 27, 2000**, in order for the child to be Title IV-E eligible, the “reasonable efforts” finding should be in the first court order removing the child from his/her home. However, if the first court order sanctioning the child’s removal does not contain the “reasonable efforts” language, a court order with such language must be obtained no later than 60 days from the date of the removal. Title IV-E claiming cannot begin until this judicial finding is made. If the judicial finding is not made within 60 days of the removal, the child will not be Title IV-E eligible for the current removal episode. **Prior to March 27, 2000**, Title IV-E claiming could begin whenever the “reasonable efforts” judicial determination was made, provided all other requirements were met.

(a) Reasonable efforts were made to prevent or eliminate the need for removal, as long as the child’s safety can be assured. The court, after hearing the evidence, must make a written finding that the Department’s efforts to eliminate the need for removal were reasonable.

(b) The provision of services at the time of the removal could not have ensured the child’s safety in the home. The court, after hearing the evidence, must make a written finding that the lack of the provision of preventative services was reasonable and that the removal of the child from the home was the only means of ensuring his/her immediate safety.

(c) Reasonable efforts to prevent removal or to reunify family are not required when a court of competent jurisdiction determines that the parent subjected the child to “aggravated circumstances” as defined in s.39.806(1)(e)-(i), F.S., or when the parent has committed crimes named in the Child Abuse Prevention and Treatment Act. When this finding is made the Department must have a permanency hearing within 30 days of this judicial finding and present a permanency plan for

the child at the hearing. Reasonable efforts must be made to place the child in a timely manner according to the permanency plan and to complete the steps necessary to finalize the permanent placement. This “reasonable efforts” finding may be made at the shelter hearing or any other hearing when such evidence is presented to the court.

(3) After the requirements at removal have been met, in order for the child to continue to be Title IV-E eligible there must be a judicial finding that reasonable efforts were made to finalize the child’s permanency plan within twelve months of the child’s removal from home. Subsequent reasonable efforts findings must be made no later than twelve months from the reasonable efforts finding as long as the child is in out-of-home care.

(a) A judicial finding must be made as a result of this hearing that the Department/CBC made (or is making) reasonable efforts to finalize the permanency plan for the child. The judicial finding is made based on the permanency plan that is in effect, which may be reunification, adoption, or another planned permanency arrangement.

(b) Failure to obtain this initial judicial finding of reasonable efforts to finalize the child’s permanency plan and subsequent findings as described above makes the child ineligible for Title IV-E. The child remains ineligible until such a judicial determination is made. Once such a determination is made, IV-E reimbursement may resume.

3-7. Removal Home. [Department of Health and Human Services (HHS), Departmental Appeals Board Decision – DAB No. 1485; Section 472(a)(1),SSA] The “removal home” refers to the home upon which the Title IV-E eligibility determination is based. It is also known as the “contrary to the welfare” home.

a. For Title IV-E purposes, “home” is tied to the presence of an adult who has taken on the daily care and supervision of a child. A child may be removed from a variety of situations and still qualify for Title IV-E, including, for example:

- (1) A hospital, following either birth or an illness or injury;
- (2) A homeless shelter;
- (3) A car or other vehicle; or,
- (4) A tent or other temporary shelter.

b. When identifying the removal home of the child, the following must be considered:

- (1) The child must be physically removed from the home.

(a) When a child is removed from a parent by the court, that parent’s home is considered the removal home.

(b) If the parent made arrangements for someone else to provide the daily care and supervision of the child and the child is subsequently removed from that person, that home becomes the removal home. (Legal custody of the child is not considered an issue when determining the removal home.)

(c) If the Department or authorized agent takes custody of a child then immediately arranges for the child to live with the other legal parent, no removal has occurred. This is considered a “living arrangement” and not a removal/placement in out of home care. (If the child is subsequently “removed” from this living arrangement, a removal/shelter order must be obtained to the

effect that reasonable efforts were made to prevent the removal and that it is contrary to the child's welfare to remain in this home.)

(2) The Department must receive responsibility for placement and care of the child by the court. The preferred court order language is: ***"The Department of Children and Families shall have placement and care responsibility while the child is under protective supervision in an out-of-home placement."***

(3) The child must have lived with the parent or other specified relative from whom he/she is removed at any time during the six-month period preceding the removal.

(4) When a child has been placed by a parent with a relative or non-relative caretaker without departmental or court intervention and the child has resided in this home for LESS than six months, the child may be *constructively* removed from the custodial parent and "placed" with the relative or non-relative caretaker by the Department. For instance the relative/non-relative caretaker may report to the Department that the parent has "abandoned" the child and as a result, the child is "removed" from the parent (by filing a shelter petition) and the child remains with the same caretaker. This is considered a constructive removal; the parent's home is considered the "contrary to the welfare home" in constructive (paper) removals.

(5) When a child has been placed by a parent with a relative without departmental or court intervention and has been in the home of a relative for more than six months at the time the court or Department becomes involved, then a physical removal from that relative's home must occur to meet Title IV-E eligibility. In this instance, the removal home has shifted to that of the relative. However, if the child had been placed with a non-relative for more than six months before court or Department intervention, he or she would not be eligible for IV-E, as the child has not resided with a specified relative within the six-month period prior to removal.

3-8. Removal Episode. A "removal episode" refers to the period of time that begins with the child's removal (physically, judicially, or voluntarily) and includes one or more subsequent placements in out-of-home care settings. A removal episode ends when a child is:

a. Reunified with his/her parent(s); this does not include returned for a trial home visit. A trial home visit is considered a "step in the reunification process," unless it extends for more than six months without a judicial extension; or,

b. Legally adopted (finalized); or,

c. Permanently placed in the home of a relative or non-relative and the Department and court involvement ceases.

3-9. Title IV-E Eligibility and Claiming Federal Financial Participation (FFP).

a. The child's initial eligibility for Title IV-E is determined based on the technical, financial, and judicial requirements. The child must be placed in a Title IV-E eligible facility prior to claiming federal reimbursement.

(1) Eligible Facilities. Eligible facilities are those that are fully licensed (per Florida Administrative Codes 65C-13, 65C-14 and 65C-15):

- (a) Shelter homes.
- (b) Family foster homes.
- (c) Group homes.



(d) Child caring or child placing agency homes. The Department must have a contract with the agency for making and/or supervising placements. Title IV-E foster care payments cannot be made directly to a for-profit agency. The payments must go directly to the foster home parents or through the public or private non-profit child placing or child caring agency.

(e) A public facility with 25 beds or less.

(2) Ineligible Facilities. Ineligible facilities include:

(a) Public facilities with more than 25 beds.

(b) Detention/locked facilities.

(c) Training schools or youth camps.

(d) Hospitals – medical or psychiatric.

(3) Court Ordered Placement. Title IV-E reimbursement must not be claimed when the court orders a child's placement with a specific licensed provider or facility. To be eligible for Title IV-E foster care maintenance payments, the child's placement and care responsibility must lie with the Department. Once a court orders a placement with a specific provider without the recommendation of the Department or designee, the court has assumed the Department's placement and care responsibility.

b. Once a child's eligibility for IV-E is established, the eligibility remains in effect until one of the following occurs:

(1) The child turns age 18;

(2) The child becomes legally married with no annulment of the marriage; or,

(3) The removal episode ends.

c. The child's eligibility may temporarily end when one of the following occur: 1) deprivation ends; 2) child's income or assets exceed established limits; 3) child is in an ineligible placement; or, 4) failure to obtain a judicial finding of reasonable efforts to finalize the child's permanency plan within 12 months of removal and every 12 months thereafter.

(1) For a child to be continuously Title IV-E eligible, deprivation must exist throughout the removal episode. If the factors of parental deprivation change, IV-E eligibility may be affected. For instance, if the parents are separated at the time of removal but later reunite, deprivation may not continue to exist. If the parents again separate, the factor of deprivation exists and eligibility resumes. Child in Care staff must be informed in either circumstance.

(2) The child will be ineligible for Title IV-E in any month in which the child's income or assets exceed limits.

(3) The child is ineligible for Title IV-E for any month she/he is in an ineligible facility or placement. However, if the child is in an eligible facility whose license expires during the month, IV-E reimbursement may be claimed for the full month, provided all other eligibility factors are met. If the facility remains unlicensed, IV-E reimbursement must not be claimed beginning the following month. Title IV-E reimbursement may resume when the facility or placement becomes fully licensed.

(4) When a judicial finding of “reasonable efforts to finalize the permanency plan” is not made within 12 months of removal (or within 12 months of the previous REFPP finding), the child becomes ineligible beginning with the month after the finding is due and remains ineligible until the finding is made.

3-10. Dual Eligibility – Determining Title IV-E Eligibility When a Child Receives Third Party Benefits. [42 U.S.C. 673(a); ACYF-PA-94-02] A child may receive Supplemental Security Income (SSI), Social Security survivor’s benefits (SSA), Veteran’s Administration (VA) benefits, or Railroad Retirement (RR) benefits and still be eligible for Title IV-E. When the child receives SSA, VA or RR benefits, the child’s cost of care may be shared between Title IV-E and the federal benefit received and should be pursued when appropriate. However, if a child is receiving SSI benefits, cost sharing with Title IV-E is not an option and a decision must be made regarding which federal benefit will be claimed for the child’s cost of care. When deciding which benefit to claim, the decision must be based on what is in the child’s best interest and not solely in consideration of maximizing federal dollars.

a. If the child is determined to be dually eligible for Title IV-E and SSI and the agency is representative payee of the child’s SSI benefits to offset the cost of care, the child’s maintenance expenditures are coded as non-Title IV-E and offset the child’s cost of care with the SSI benefits. The associated administrative costs are IV-E reimbursable. The appropriate FSN code is “Title IV-E Eligible/Non-Reimbursable”.

b. If the agency elects to claim Title IV-E for the child’s cost of care, the Social Security Administration must be notified that the child’s cost of care (board payment) is paid via Title IV-E benefits and of the monthly amount of the foster care board payment. The Social Security Administration will then deduct the Title IV-E benefit from the child’s SSI payment and forward the balance to the representative payee. Both the board payment and the administrative cost would be charged to Title IV-E and the coding in SACWIS is Title IV-E eligible/reimbursable .

NOTE: When a child receiving SSI benefits enters shelter care, the Social Security Administration should be contacted to have the SSI benefit suspended. When the child is adjudicated dependent and ordered into foster care placement (disposition hearing), the Department or CBC agency must notify the Social Security Administration and apply to become the child’s representative payee.

3-11. Voluntary Foster Care. [Section 472(b) and (d); 475 (5) SSA; PL 96-272, Section 102(a) 2; IM 88-12; 45 CFR 1356.21(9)(e) and (f); 42 U.S.C. 672 (d) & (f)]

a. When there are no abuse or neglect issues involved, a parent(s) or legal guardian may sign a voluntary foster care agreement with the Department for the temporary placement of a child in foster care. Title IV-E may be claimed for the first 180 days of the child’s placement if the child and family meet the eligibility criteria. A signed Voluntary Placement (Licensed) Agreement (form CF-FSP 5004; available in DCF Forms) must be executed and be available in the child’s case record. The agreement must contain the signature of the parent(s) or legal guardian(s) and the Department representative and the date the agreement was signed. If the signings occurred on different dates, the date of the final signature is the agreement date. Financial need and deprivation of parental care or support must exist at the time of the voluntary placement in licensed foster care in order for the child to be IV-E eligible. The staff person receiving the voluntary placement must annotate detailed information about the parent(s)’ living situation and the removal home.

b. In order to continue Title IV-E eligibility, within 180 days from the date of the voluntary licensed placement, a judicial finding must be made to the effect that the placement in out of home care is in the child’s best interest or remaining in the child’s home is “contrary to the child’s welfare.” If the judicial finding is not made within the first 180 days, the child will not be IV-E eligible for the remainder of the removal episode.

3-12. Children of Minor Parents in Foster Care. [Sections 472 and 473, SSA] A child living with his/her minor parent in a licensed foster family home or a child-care institution is not considered to be in “foster care” if the minor parent’s child has not been legally removed from the parent pursuant to a voluntary licensed placement agreement or a judicial determination. The needs of the child living with a minor parent in the same licensed foster home are included in the Title IV-E payment being made on behalf of the minor parent.

a. Effective March 27, 2000, separate Title IV-E foster care maintenance payments cannot be made for children of minor parents (unless the child has been legally removed from the minor parent). The minor parent’s foster care board payment may be increased to cover the foster care maintenance costs of a child of that minor parent when the parent and the child are in the same licensed foster home or facility. The “contrary to the welfare” status is absent if the child remains in the home with the minor parent. However, if the child is removed or separated from the minor parent, the needs of the child must no longer be included in the maintenance payment of the minor parent. In such cases, the child’s eligibility for Title IV-E out-of-home care will be based on the child’s current and individual circumstances.

b. A child whose cost of care in a licensed foster home or facility is covered by the Title IV-E foster care payments made with respect to the minor parent is also eligible for Title XIX Medicaid.

3-13. Adjudicated Delinquents or Status Offender Children. [Sections 406(a) and 407 (as were in effect on July 16, 1996), 472, and 475(4) and (5), SSA; ACYF-PIQ-82-10; ACF-PIQ 88-03; ACYF-PIQ-91-03] Title IV-E has specific eligibility factors that must be met in order to claim Title IV-E reimbursement for adjudicated delinquent or status offender children in out-of-home care. Eligibility in the case of adjudicated delinquents and status offenders rests on two factors: (1) eligibility of the child, and (2) the type of facility in which the child is placed. Following are the eligibility criteria needed to make a Title IV-E claim.

a. There must be a physical removal of the child from his/her home. A juvenile court must make a judicial finding that it is in the child’s “best interest” to be removed from his/her home, or that it is “contrary to the welfare” for the child to remain in the home or that the child is a “threat to himself.” However, if the court order only indicates that the child is “adjudicated delinquent” or that the child is a “threat to the community”, such language does not satisfy the requirement for a determination that continuation in the home would be contrary to the child’s welfare. The judicial determination must be made in the first order that results in the removal of the child from the home.

b. There must be a judicial finding that reasonable efforts were made to prevent the removal of the child from his/her home. The court may make the reasonable efforts finding at any time or within 60 days of the removal. Title IV-E funds cannot be claimed until the reasonable efforts judicial finding occurs. Effective March 27, 2020, the judicial finding on reasonable efforts must occur within 60 days of the removal to be eligible for Title IV-E.

c. The child must be dependent, and the child’s family must meet AFDC eligibility as described in paragraph 3-4 of this operating procedure.

d. The placement and care of the child must be the responsibility of the Department.

e. The child must be placed in a licensed emergency shelter home or licensed foster family home, a licensed private child caring agency, or a public facility with 25 beds or less. However, foster care costs in any facility operated *primarily* for the detention, care or treatment of children who have been found or are alleged to be juvenile delinquents are not eligible for Title IV-E reimbursement. The two key questions that should be asked in determining if a facility is operated *primarily* for detention purposes are: (1) Is it a physically restricting facility? and (2) Would it be operational without a population of children who have been adjudicated delinquent?

f. An otherwise Title IV-E eligible child, initially placed in a detention facility, may become Title IV-E eligible and reimbursable when transferred to a licensed facility which meets the Title IV-E requirements listed in paragraph 3-8a(1) above. The initial order removing the child from the home must contain “best interest” or “contrary to the welfare” judicial language and reasonable efforts language must be in the removal order or obtained within 60 days of removal. Since Title IV-E cannot be claimed for children in detention facilities the “clock” for calculating when to comply with the requirements for developing case plans, holding judicial reviews, and permanency hearings, and the TPR provisions begins when the child is placed in licensed foster care.

3-14. Title IV-E Reimbursement for Child-Caring/Child-Placing Agencies. [Section 472(b) and (c), SSA]

a. Title IV-E foster care maintenance payments must be made directly to the foster family or child-care institutions from the Department or through the public or private nonprofit child-placing or child-caring agency with which the Department contracts for making and/or supervising placements.

b. Title IV-E reimbursement is **not** available for foster care maintenance payments made through a for-profit child-placing or a for-profit child-caring agency.

c. Title IV-E payments may not be made for children placed in licensed public (governmental) facilities serving more than 25 children.

d. Title IV-E payments may not be made for children placed in detention facilities, forestry camps, training schools, hospitals or any other facility operated *primarily* for the detention of children who are determined to be delinquent.

3-15. Title IV-E Administrative Costs. [Section 471(a)(15) and (16), 472, 474 and 475(4), SSA; 45 CFR 1356.60; ACYF-PA-87-05 and ACYF-CB-PI-01-109] The Department may claim certain administrative costs necessary for the administration of the Title IV-E state plan. The state cost allocation plan identifies which costs are allocated and claimed under Title IV-E.

a. The determination and re-determination of eligibility, fair hearings and appeals, rate setting, and other costs directly related to the administration of the Title IV-E program are allowable administrative costs.

b. Reimbursement for eligibility determination activities is limited to costs involved in the actual verification and documentation of eligibility. These include positive as well as negative eligibility determinations. The activities of staff whose responsibilities extend beyond eligibility determination for Title IV-E must be allocated to the appropriate program(s).

c. Other allowable administrative costs include such activities as recruitment and licensing of foster homes and institutions, training, and other activities that are not directly linked to the eligibility of children. The administrative costs for these activities must be allocated in a manner that assures that each participating/benefiting program is charged its proportionate share of costs. The allocations may be determined by case count of Title IV-E eligible children in relation to all children in foster care under the responsibility of the state Title IV-E state plan or on some other equitable basis.

d. Title IV-E reimbursement (FFP) for the administrative costs associated with a Title IV-E eligible child placed in an unlicensed (relative or non-relative) foster home may be charged to Title IV-E while the Department is in the process of licensing the home. FFP for maintenance cost may also be claimed once the home is fully licensed.

e. Costs that are not reimbursable under Title IV-E include those costs incurred for social services which provide counseling or treatment to the child, the child’s family, or foster family to remedy

personal problems, behaviors, or home conditions. NOTE: The IV-E foster care waiver removes these restrictions.

## TITLE IV-E FOSTER CARE CHECKLIST

### Judicial Removal:

- Shelter Petition (contains information on removal situation and documents who child lived with at time of removal)
- Shelter Order – must contain “contrary to welfare” and reasonable efforts to prevent removal” language

### Voluntary Removal: (temporary, licensed out-of-home foster care placement)

- Voluntary Placement Agreement (CF-FSP 5004)**, (Date signed: \_\_\_\_\_)
- Court order within 180 days of voluntary placement agreement that contains “contrary to welfare” language

### SSI-Related Documentation:

- If applicable, award letter from the Social Security Administration or other documentation/proof of eligibility

### AFDC/Eligibility-Related Documentation:

- Copy of original **Child in Care Title IV-E and Medicaid Application (CF-ES 2626A)**
- Notice of Case Action/ (Child in Care) (CF-ES 2629)**
- Initial eligibility determination dated: \_\_\_\_\_
- 12-month annual review completed: \_\_\_\_\_
- Declaration of Citizenship (CF-ES-2058)
- Documentation of Citizenship Status (Acceptable Documentation: Birth certificate, Declaration of Citizenship, INS documentation)
- Documentation of Identity
- Copy of Social Security Card or proof of application
- Documentation that child lived with a specified relative within 6 months of removal
- Documentation of Income and Assets
- Documentation of deprivation and financial need at removal
- Documentation of deprivation and financial need at annual redetermination
- Documentation of continuous IV-E reimbursability throughout the removal episode (parents reunited or separated; child aged out; child moved into a licensed or unlicensed placement; changes in child’s income, etc.)
- Child in Care Eligibility Review and Change Report (CF-ES 2694)**  
(If applicable, changes dated: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ )

### Court Documentation:

- Modification Orders of Placement/Change
- Dependency Petition(s)
- Adjudication Order(s)
- PDR/PDS
- Evidence that involved parties were notified of all court hearings pertaining to child (parents, foster parent guardian ad litem, etc.)
- Initial Case Plan
- Case Plan Updates
- Order Approving Case Plan
- Judicial Review Social Study Report(s)
- Judicial Review Order(s)
- Judicial Determination Order with “Reasonable Efforts to finalize Permanency Plan” language 12 months from removal (Dated: \_\_\_\_\_)
- Subsequent Judicial Determination order of “Reasonable Efforts to finalize Permanency Plan” (Dated: \_\_\_\_\_)
- Petition for TPR
- TPR Order on all parents

**Licensing Documentation:**

- Placement History with copies of provider license for each placement
- If applicable, Child-placing agency license
- Criminal Background Screenings
- National/Federal (Date completed: \_\_\_\_\_)
- State (Date completed: \_\_\_\_\_)
- Local (Date completed: \_\_\_\_\_)

**Generic Documentation:**

- If applicable, **Notarized Designation of Client Money and Property (CF-FSP 5222)** and monthly or quarterly transactions/balance statements
- Payment History (ICWSIS)
- SACWIS Eligibility input

## Chapter 4

### ELIGIBILITY UNDER THE TITLE IV-E FOSTER CARE WAIVER

4-1. Background. In March 2006, the United States Department of Health and Human Services' Administration for Children and Families (ACF) granted a five-year waiver to the State of Florida to operate a statewide child welfare demonstration project. The purpose of the waiver is to demonstrate that flexible use of Title IV-E foster care funds can improve safety, well-being and permanency outcomes for children in or at risk of entering out-of-home placement. Under the project, Florida can use Title IV-E federal foster care funds to pay for a wide variety of child welfare services including prevention, intensive in-home services to prevent placement of children outside the home, reunification and foster care. The start date of the waiver project was October 1, 2006.

4-2. Legal Authority. [Section 1130, Social Security Act] The State of Florida operates the Title IV-E foster care demonstration project under the *Waiver Authority*, as set forth in the *Waiver Terms and Conditions*, and amendments.

4-3. Use of Title IV-E Foster Care Funds. The demonstration targets (1) children ages 0-18 who were receiving in-home or in out-of-home services on October 1, 2006, the first day of the project, and (2) all new families with a report of alleged child maltreatment during the course of the demonstration. Title IV-E foster care waiver funds follow the service needs of the children and their families. Under the Waiver Authority, Title IV-E funds can be used to pay the costs of child welfare services related to prevention, diversion from out-of-home placement through intensive in-home services, permanency, and reunification.

4-4. Eligibility Determination. While all children are presumed Title IV-E eligible under the waiver, the state is required to continue to identify children who meet basic Title IV-E foster care requirements. Each community-based care lead agency must develop a simplified process for capturing, determining, and tracking eligibility. Local policies and processes must assure that critical documentation supporting the eligibility is preserved in the child's case management or revenue maximization file. The simplified Title IV-E Foster Care Initial Checklist and Instructions, Attachments 1 and 2 to this chapter, must be used until the lead agency develops an approved replacement checklist. At a minimum, local procedures for revenue maximization must include the following elements:

a. Assembly of all the required documentation per the simplified eligibility checklist and determination as to presumptive eligibility for Title IV-E foster care waiver funds. An eligibility determination must be conducted within five(20) days of a child entering out-of-home care and the eligibility results input into FSFN.

b. Completion of the Child In Care Medicaid Application and Declaration of Citizenship forms and submittal to Child In Care (see Chapter 5 of this operating procedure). Child In Care staff ensures that all required information is included in the application packet to accurately determine eligibility for Medicaid benefits.

c. Input of the child's eligibility in Florida Safe Families Network (FSFN) when determination is complete.



4-5. Client Eligibility. All children in care and those who come to the attention of the Department during the waiver period are presumed to be eligible for Title IV-E foster care funds. These are children who were receiving in-home or out-of-home services on October 1, 2006, and all new families with a report of alleged child maltreatment during the five years of the demonstration. For children placed in licensed care:

a. The revenue maximization eligibility specialist or designee will evaluate the child and family circumstances at the time of removal and determine eligibility for Title IV-E foster care. To presume eligibility is to make the best determination of a child's eligibility based on the information collected and preserved in the packet. While all children are presumed Title IV-E under the waiver, the state is required to identify children who meet Title IV-E basic requirements. The eligibility determination does not alter the way funds may be used

b. Formal Notice of Case Action from Child in Care staff confirming presumptive IV-E Foster Care eligibility is not required for all cases. In the event the child's permanency goal is adoption, the child's eligibility for IV-E foster care using the pre-waiver eligibility policy must be determined and a Notice of Case Action stating such must be completed as a prerequisite to paying any Title IV-E adoption subsidy.

c. The appropriate eligibility code must be input in FSFN promptly.

4-6. Medicaid Eligibility. Medicaid eligibility determination is conducted for all children entering foster (licensed) care. Child in Care staff will determine a child's eligibility for Medicaid benefits. Child in Care staff use FLORIDA to build Medicaid category based on the eligibility determination made by revenue maximization staff. There is no change in program codes: MCFN for IV-E and non IV-Eligible recipients. Continued Medicaid eligibility of the child must be reviewed at 12 month intervals.

NOTE: Community-based care case managers are responsible for enrolling children who are in out of home care in Medicaid managed care.

4-7. Dual Eligibility: SSI and IV-E Waiver. Revenue maximization staff determine eligibility for Title IV-E foster care waiver funds when a child receives third party benefits. A child may receive Supplemental Security Income (SSI), Social Security survivor's benefits (SSA), Veteran's Administration (VA) or Railroad Retirement (RR) benefits and still be eligible for waiver funds. Therefore, a Title IV-E presumptive eligibility determination must be conducted for children receiving third party benefits. When the child receives SSA, VA or RR benefits, the child's cost of care may be shared between waiver funds and the federal benefit received and should be pursued when appropriate. However, if a child is receiving SSI benefits, cost sharing with Title IV-E is not an option and a decision must be made regarding which federal benefit will be claimed for the child's cost of care. When deciding which benefit to claim, the decision must be based on what is in the child's best interest and not solely in consideration of maximizing federal dollars. The process and requirements are no different than prior to the waiver.

4-8. Interstate Compact for the Placement of Children (ICPC). The responsibility for payment of foster care board payment and Medicaid depends on whether the state is receiving or sending under ICPC.

a. Title IV-E Foster Care and Medicaid Eligibility for Children Placed in Another State by Florida. Florida as the sending state is responsible for board payments for the children placed out of state. The receiving state is responsible for Medicaid coverage.

(1) When a child is placed in another state, the Child In Care staff will issue a Notice of Case Action indicating the child's eligibility or ineligibility for Title IV-E foster care waiver funds.

(2) No Florida Medicaid card is generated for children placed out of state.

(3) The ACFC screen in FLORIDA will indicate that the child has been placed in another state. (See Chapter 5 of this operating procedure.)

b. Medicaid Eligibility for Title IV-E Children Placed in Florida by Another State. Florida is responsible for Medicaid benefits for children placed in Florida by another state. The FLORIDA system supports Medicaid eligibility for Title IV-E eligible children placed in Florida by other states while providing no Title IV-E maintenance payments. Child in Care staff will issue a Florida Medicaid card based on the sending state's determination of child's Title IV-E status.

4-9. Coding and Reporting. The eligibility of all children receiving Title IV-E foster care waiver funds must be accurately and timely entered and maintained in the Florida Safe Families Network (FSFN).

c. The Title IV-E codes in Florida Safe Families Network (FSFN) did not change with the Waiver.

4-10. Title IV-E Maintenance Adoption Subsidy. Title IV-E maintenance adoption subsidy eligibility requirements and procedures are not affected by the waiver program. Application and screening are handled as provided in Chapter 6 of this operating procedure.

Child's Name: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

**TITLE IV-E FOSTER CARE INITIAL CHECKLIST**  
**(Note: This Checklist is not all inclusive.)**

Removal Date: \_\_\_\_\_

**Judicial Removal:**

- Shelter/Initial Removal Order – **must contain “contrary to welfare” and reasonable efforts to prevent removal” language.**
- Shelter Petition

**Voluntary Removal (temporary, licensed out-of-home foster care placement):**

- Voluntary Placement Agreement (**CF-FSP 5004**), (Date signed: \_\_\_\_\_)
- Court order **within 180 days of voluntary placement agreement that contains “contrary to welfare” language**

**SSI-Related Documentation:**

- Award letter, **if applicable, from the Social Security Administration or other documentation/proof of eligibility.** If child is SSI eligible, then child is IV-E Non-Reimbursable.

**AFDC/Eligibility-Related Documentation:**

- Proof of Citizenship Status and Identity: **Provide Birth Certificate, Declaration of Citizenship, or INS documentation). *The Declaration of US Citizenship form must be attached to the 2626A form.***
- Social Security Card: **copy or proof of application**
- Documentation that child lived with a specified relative within 6 months of removal (reference petition if applicable).**
- Income and Asset **supporting documentation**  
See income guide.
- Deprivation and financial need **of income and asset at removal**

**NOTE: The child being eligible for IV-E foster care is a prerequisite to IV-E Adoption Subsidy.**

**IV E Adoption Determination Checklist:**

- Petition for TPR
- TPR Order **on all parents**

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**Foster Care Eligibility: (Revenue Maximization Use Only)**

- IV-E FC Eligible (Presumptively)                       Non IV-E Eligible
- IV-E Non-Reimbursable

\_\_\_\_\_  
Revenue Maximization Specialist

\_\_\_\_\_  
Date

Comments:

## INSTRUCTIONS

### TITLE IV-E FOSTER CARE WAIVER (INITIAL) CHECKLIST

Enter the child's name and social security number.

The child's case file should include the supporting documentation for each item below.

**Removal Date** – refers to date that the child is removed from his/her normal residence (either judicially or voluntarily) and is placed in one or more out-of-home care settings, i.e., emergency shelter, relative care, foster home, etc. This date is generally reflected in the Shelter Order.

#### Judicial Removal:

- ❑ **Shelter/Initial Removal Order** – must contain “contrary to welfare” and “reasonable efforts to prevent removal” language. A judicial finding of “contrary to the welfare” must be made at the first court hearing that approves/sanctions the removal of the child from the home. This can include orders from other hearing types, i.e. Change of Custody, Judicial Review hearings, etc.
- ❑ **Shelter Petition** - contains information on removal date, removal situation, and documents where and whom the child was living with at time of removal.

#### Voluntary Removal (temporary, licensed out-of-home foster care placement):

- ❑ **Voluntary Placement Agreement** (CF-FSP 5004), (Date signed: \_\_\_\_\_) When there are no abuse or neglect issues involved, a parent(s) or legal guardian may sign a voluntary foster care agreement with the department for the temporary placement of a child in foster care. A signed Voluntary Foster Care (Licensed) Agreement is executed and available in the child's case record. It is important that the case manager receiving the voluntary placement makes notes about the parent(s)' living situation and the removal home.
- ❑ **Court order** within 180 days of voluntary placement agreement that contains “contrary to welfare” language. In order to ever receive Title IV-E eligibility a judicial finding must be made within 180 days from the date of the voluntary licensed placement to the effect that the placement in out of home care is in the child's best interest. If the judicial finding is not made within the first 180 days, the child will not be IV-E eligible.

#### SSI-Related Documentation Requirements:

**Award letter**, if applicable, from the Social Security Administration or other proof of eligibility. The lead agency should continue to apply for and become the representative payee for the child's SSI and use the SSI payment to offset the cost of care. The SSI eligible child also has the benefit of services funded from the IV-E waiver. The waiver should not impact the treatment of a child's SSI. Refer to CFOP 175-71. *Note: Child is IV-E Non-Reimbursable.*

**INSTRUCTIONS (continued)**

**TITLE IV-E FOSTER CARE INITIAL CHECKLIST**

**AFDC/Eligibility-Related Documentation Requirements:**

- Proof of Citizenship Status and Identity:** Provide Birth certificate; Declaration of Citizenship, or INS documentation) *The Declaration of US Citizenship form is completed and attached to the 2626a form.*
- Social Security Card:** copy of the child's social security card or proof of application.
- Documentation that child lived with a specified relative within 6 months of removal.** Shelter petition should include information on the living situation at the time of removal, including those living in the home.
- Income and Asset** supporting documentation.  
Earned income information for parent(s), child and siblings in the removal home - Employer's name and address, # of hours worked per month, total gross earned income for the month.  
Unearned income information for parent(s), child, and siblings in the removal home - source and amount of income per month.  
  
Asset limit is \$10,000. Some examples of assets are: savings account, checking account, stocks, bonds, etc.
- Deprivation and financial need**  
Child must be deprived of support or care of one or both parents due to death, incapacity, unemployment/underemployment, or continued absence because of divorce, separation or desertion.

**NOTE: The child being eligible for IV-E foster care (pre-waiver) is a prerequisite to IV-E Adoption Subsidy.**

**IV E Adoption Determination Checklist:**

- Petition for TPR
- TPR Order **on all parents**

**Foster Care Eligibility:**

The revenue maximization specialist **must** complete this section and inform Child in Care whether the child is IV-E FC Eligible (Presumptively), IV-E Non Reimbursable, or Non IV-E Eligible

## Chapter 5

### PUBLIC ASSISTANCE

#### 5-1. Overview of Program Requirements. [42 U.S.C. 606(a), 607 in effect on July 16, 1996, 672]

a. Title IV-E program requirements are similar in many respects to those of the former Aid to Families with Dependent Children (AFDC) program. A child's eligibility is based on Florida's Title IV-A State Plan in place on July 16, 1996. However, there are certain important differences in these two programs, which are discussed in this chapter.

b. In order for the state to receive Title IV-E funding, the child in foster care must meet eligibility criteria discussed in Chapter 3 of this operating procedure, and certain AFDC related technical and financial requirements at the time of removal.

NOTE: The AFDC policy also applies to Title IV-E adoption assistance, discussed in Chapter 6 of this operating procedure.

#### 5-2. The Role of ACCESS Florida Services and Family Safety in Determining Title IV-E Eligibility.

ACCESS Florida and child in care is no longer determining Title IV-E eligibility. Revenue maximization staff are responsible for collecting and documenting all necessary information. . For purposes of this operating procedure, revenue maximization staff may include case managers according to local process. Revenue Maximization specialists are responsible for making eligibility determinations based on the information provided by the case management staff. The referenced forms are available in DCF Forms on the Intranet and Internet.

a. The revenue maximization responsibilities of Region/Circuit/Community Based Care (CBC) staff include:

(1) Completion of the Child in Care Title IV-E and Medicaid Application (CF-ES 2626A) to document eligibility factors for each child entering licensed out of home care. The information collected for Title IV-E is based on the child and family circumstances at the time of removal. The following information must be attached to the completed form:

(a) The Declaration of United States Citizenship/Qualified Non-Citizen Status (form CF-ES 2058, available in DCF Forms).

(b) A copy of any documentation of qualified non-citizen status, and any other available information which would assist the ACCESS Florida CIC specialist in determining the child's eligibility, as necessary.

(2) Completion of the Child in Care Medicaid application (form CF-ES 2293), in cases where only Medicaid and not Title IV-E eligibility determination is needed.

(3) Submission of the application and supporting documentation to the ACCESS Florida CIC specialist for an eligibility determination.

(4) Forwarding the Child in Care Eligibility Review and Change Report (form CF-ES 2694, available in DCF Forms) to the ACCESS Florida CIC specialist, with information affecting ongoing eligibility when complete or partial eligibility determinations are due.

b. The responsibilities of ACCESS Florida CIC staff include:

(1) Determination of the child's initial eligibility for Title IV-E or Medicaid within the established cash assistance application time standard.

(a) The child's eligibility is determined by an ACCESS Florida CIC specialist using the Child in Care Medicaid Application (form CF-ES 2626A) or the Child in Care Medicaid Application (form CF-ES 2293), as appropriate. The 2293 form is specifically designed to capture information pertinent to Medicaid eligibility determination. Cases processed by the ACCESS Florida CIC specialists are put in a "confidential" caseload and access (including inquiry) is restricted to the assigned CIC worker, the back-up worker(s), the unit supervisor, and designated headquarters/region/circuit/CBC staff.

(b) Once the eligibility determination is completed by the ACCESS Florida CIC, the revenue maximization staff will be notified via a written Notice of Case Action of the disposition of the child's application or a request for additional information. Within the FLORIDA system, the shelter, foster, or adoptive parent's address should be listed on the AICI screen so all Florida Medicaid Management Information System (FMMIS) notices and the Medicaid card will be sent to the address where the child resides. When a child resides in a hospital, or in a licensed placement, notices as well as the Medicaid card will be sent to the revenue maximization staff or designee.

(2) Determination of child's continuing eligibility for Title IV-E and Medicaid through complete reviews, and scheduled or unscheduled partial reviews.

(3) Maintenance of a separate case record which contains complete information needed to establish eligibility.

(4) Communication with the revenue maximization staff when additional information is needed to establish the child's eligibility; and following up such request with the appropriate revenue maximization supervisor if this information is not received within 10 days.

(5) Completion of ex-parte reviews and application of continuous Medicaid policy when appropriate.

(6) Initiation of any action upon learning of the change independently. The ACCESS Florida CIC specialist must act on the information and request additional information from revenue maximization staff as appropriate. A Notice of Case Action will be sent to revenue maximization advising of the changes and reason(s) for the change.

(7) Re-construction of eligibility when a Title IV-E eligibility determination was not previously processed.

5-3. Eligibility Determination.

a. Initial Eligibility Determinations by ACCESS Florida. The ACCESS Florida CIC specialist determines eligibility for Medicaid. The eligibility process for Title IV-E foster care (pre-waiver) includes :

(1) Eligibility of the Family. The ACCESS Florida CIC specialist determines if the family (including the child) met the AFDC eligibility requirements (those in effect on July 16, 1996) at the time of the child’s removal or voluntary placement in licensed out of home care. To build a Title IV-E case, the child’s family information as it is recorded on the Child in Care application is added to the child’s FLORIDA case.

(a) If eligibility of the family cannot be established, the application for Title IV-E must be denied.

(b) The FLORIDA system is used by the ACCESS Florida CIC specialist to process this information. The CIC specialist will use the AFDC cash assistance standard filing unit policies and cash assistance technical and financial eligibility criteria. Both the child and the family must be assessed for AFDC eligibility.

(2) Eligibility of the Child. If the family meets the technical and financial eligibility requirements, the child’s individual eligibility must be determined.

(3) Eligibility of the Minor Parent and His/Her Child(ren). When the minor parent retains custody of his/her child(ren) and the child(ren) remains in the same home as the minor parent, the board payment to the foster parent is increased to cover the needs of the minor parent’s child(ren). The eligibility of the minor parent’s child(ren) is not a condition of the increased payment. It is the parent’s eligibility that allows this increase to meet the minor parent’s child(ren)’s needs. Only the income and assets of the minor parent are counted.

NOTE: If the minor parent is not Title IV-E eligible, he/she has an option of including the child(ren) on the CIC case for Medicaid coverage or applying for cash assistance and Medicaid assistance for the child(ren). The ACCESS Florida CIC specialist will determine the child(ren)’s eligibility for cash assistance with information provided by Revenue Maximization staff. Caution must be used in these cases to ensure that Revenue Maximization is not providing an enhanced payment to the foster parent to compensate for the additional costs to the foster parent. The ACCESS Florida CIC specialist will consult with Revenue Maximization staff prior to authorizing cash assistance.

b. Title IV-E Application Process. Refer to the following chart for Title IV-E application process details. For further detail refer to CFOP 165-22, ACCESS Florida Program Policy Manual.

<b>ADMINISTRATIVE</b>	
FACTOR	TITLE IV-E Foster Care
Application Form	<p>CIC Title IV-E and Medicaid Application (form CF-ES 2626A) completed by Family Safety staff.</p> <p>The ACCESS FLORIDA CIC specialist processes the CIC Medicaid and Title IV-E Application using the FLORIDA system.</p>
Declaration of Citizenship (form CF-ES 2058)	Form completed by Revenue Maximization staff.



FACTOR	TITLE IV-E Foster Care
Face-to-Face Contact	No face-to-face contact with the family, child or foster parent by CIC staff. No face-to-face interview required. All case processing is done from the CIC Medicaid and Title IV-E Application. All contacts with family, child, and foster parent must be made by Revenue Maximization or case managers.
Application Time Standard	45 days from the date of application.
Date of Entitlement	The date on which the state becomes entitled to federal reimbursement. The date of entitlement may be as early as the date of the removal if all eligibility criteria are met including appropriate wording on the removal court order.
Additional Information Needed	The ACCESS Florida CIC specialist requests in writing or telephones the revenue maximization staff to obtain the required information.  If Revenue Maximization does not reply within 15 days of the request for additional information, the ACCESS Florida CIC specialist must contact the Revenue Maximization staff's supervisor to obtain the information.  If required information cannot be obtained, the application must be rejected. However, every effort must be made to determine the child's eligibility.
Complete Eligibility Reviews	Processed every 12 months.
Ten Day Notice Requirement	The 10-day adverse action notice requirement does not apply.  The ACCESS Florida CIC specialist must notify Revenue Maximization in writing promptly, but no later than 30 days, of any months in which ineligibility or reduction in the funding rate occurs even if retroactive. The IV-E claim for applicable months will be adjusted by Revenue Maximization or designee.
Complete Eligibility Review Form	The Revenue Maximization staff completes the Child in Care Eligibility Review and Change Report (form CF-ES 2694) Title IV-E and Medicaid Application (form CF-ES 2626A). No face-to-face contact is required.

TECHNICAL	
FACTOR	Title IV-E
Age	Children must be under 18 years of age.
Residence	The child resides in a licensed setting. Florida residence requirements <u>do not</u> apply. Child may be placed in out-of-state foster home. The state of residence is responsible for Medicaid for a Title IV-E eligible child.
Citizenship	Each individual must be:  U.S. citizen, or

	a qualified /eligible non-citizen according to current TANF policy. (NOTE: This criteria does not apply to children whose initial adoption assistance agreement was signed prior to August 22, 1996.)
Filing Unit	Each child is a separate filing unit.
Living in the Home of a Parent or Other Specified Relative	<p>Child must have resided in <b>and</b> have been removed from the home of a parent or other specified relative.</p> <p>Child born to mother who was incarcerated or does not plan to bring baby home from hospital is considered to be living in the home of the parent and potentially eligible.</p>
Deprivation  Refer to Attachment 2 to Chapter 5.	<p>Child must be deprived of support or care of one or both parents due to death, incapacity, unemployment/underemployment, or continued absence because of divorce, separation or desertion.</p> <p>Deprivation based on unemployment/underemployment is determined using unemployed/underemployment principal wage earner and hours work criteria, based on the pre-1996 AFDC state plan.</p> <p>Must look at home of specified relative in which child was living at the time the child was removed from the home. If one or both parents were absent from that home, deprivation exists. This occurs even if parents reside together, but apart from the child.</p> <p>If the Department has permanent commitment (TPR) of the child, deprivation is met by law.</p>
Welfare Enumeration	Child: Revenue Maximization staff must provide the child's Social Security Number or proof of application for the number. (A Medicaid requirement.)
Employment and Training	Not applicable.
Filing Unit	<p>Family: Siblings and parents of the child living in the home must be included in the assistance group, if otherwise eligible.</p> <p>Child: Each child is separate filing unit (even if siblings reside in the same foster home).</p>
Child Support Enforcement (CSE)	<p>Revenue Maximization staff completes the absent parent information on the CIC Medicaid and Title IV-E Application.</p> <p>Information provided by Revenue Maximization on the absent parent(s) is available on FLORIDA for Child Support Enforcement's action.</p> <p>Good Cause: The payee must provide information to the ACCESS Florida regarding the absent parent(s) and cooperate in establishing paternity, support, etc. unless good cause exists (see CFOP 165-22, Public Assistance Policy Manual, Chapter 1400).</p>

	CSE determines good cause.
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<b>FINANCIAL</b>	
FACTOR	Title IV-E
Asset Limit	<p>Family and Child: Cannot have combined value over \$10,000.</p> <p>Child: Assets must be less than \$10,000.</p> <p><i>NOTE: Money or properties in a master trust account or sub-account is not counted towards the asset limit. Refer to CFOP 175-59.</i></p>
Income	<p>Family: All earned and non-earned income is counted unless specifically excluded or disregarded. Nonrecurring lump sum payments are included assets in the month of receipt unless specifically excluded. However, ineligibility on lump sum in month of initiation of court action results in a determination of Title IV-E ineligibility</p> <p>Child: Only income actually received by or available to the child can be considered in the budget. The income of the child's parents and relative is not considered.</p> <p>State collected child support or money collected by Fee Collections <u>is not</u> counted. (This is considered unavailable.)</p> <p>Lump Sum ineligibility period is the number of months the child is ineligible based on dividing the lump sum income by the board rate. Any remainder must be counted in the first month that eligibility resumes.</p>
Budgeting	<p>Family: Countable income with a \$90.00 earned income disregard must be less than July 16,1996 cash assistance consolidated need standards.</p> <p>Child: Use prospective budgeting.</p> <p>Child's gross income cannot exceed 185% of the child's board rate.</p>

<b><i>When the application is:</i></b>	<i>Then the ACCESS Florida CIC:</i>
<b><i>Denied</i></b>	FSFN will create the determination.
<b><i>Approved</i></b>	<p>FSFN will create the determination.</p> <p>NOTE: FLORIDA schedules the review at 12- month intervals</p>

5-4. Eligibility Review. [42 U.S.C. 606(a), 607, 672]

a. When the Eligibility Review Is Scheduled on IV-E Cases. Continued eligibility of the child must be reviewed at 12-month intervals. The review due date is based on the month the last complete review or application approval was done. This review must be completed by the last day in the month for which it is scheduled. The eligibility of the family will not be considered during the complete review, except in determining that deprivation continues to exist. (Note: deprivation exists when the Department has permanent commitment of the child).

b. Factors of Eligibility That Must Be Reviewed.

(1) Eligibility requirements that must be met at the annual review include continued deprivation, income, assets, and eligible placements. ACCESS Florida Child in Care specialist will only count child’s income and assets. However, there are some differences as discussed in paragraph 5-4c below.

(2) Additionally, the child’s continued IV-E foster care eligibility will also be based on whether a court of competent jurisdiction has made a timely judicial determination (in a valid court order) that “the Department has made reasonable efforts to finalize the child’s permanency plan” (REFPP). The initial REFPP finding is due within twelve months of the child’s removal from home; subsequent findings are due every twelve months thereafter as long as the child is in out of home care. When such findings are not made timely, the child becomes ineligible for Title IV-E foster care beginning with the thirteenth month and remains ineligible until the REFPP finding is made.

c. Title IV-E Review Process. The following chart shows the Title IV-E foster care eligibility review process.

<b>ADMINISTRATIVE</b>	
FACTOR	Title IV-E Foster Care
Face-to-Face Contact	No face-to-face contact required.  Revenue Maximization reports any changes in the child’s circumstances on form CF-ES 2694. These may include: -Board Rate -Income and assets of the child -Any other changes in family status affecting the deprivation factor (for example: parents reunite and live together in the family setting in which the child was living at the time of removal from the home or permanent commitment of the child to the Department).
Additional Information Needed	The ACCESS Florida CIC specialist requests in writing or telephones Revenue Maximization staff to obtain the required information.  If Revenue Maximization staff person does not reply within 10 days of request, Child In Care Supervisor contacts the Unit Supervisor to obtain the required information.
Ten Day Notice Requirement	The 10-day notice requirement does not apply.

<b>TECHNICAL</b>	
FACTORS	Title IV-E
Deprivation	<p>The IV-E child must be deprived of the support or care of one or both parents due to death, incapacity, unemployment, underemployment or continued absence because of divorce, separation or desertion.</p> <p>Regarding the family setting in which child was living at the point of removal from the home, if one or both parents are absent from that family setting, deprivation exists. If parents reunite and live together, the child may become ineligible on the factor of deprivation. However, if the parents reunite and deprivation is found to exist due to the incapacity or disability (SSI) of one or both parents, the child remains Title IV-E eligible.</p> <p>If the Department has permanent commitment of the child, deprivation is met.</p> <p>The case is ineligible for IV-E for any months in which deprivation does not exist.</p>

d. Actions to Take when Changes Occur in an Active Case.

<i><b>WHEN the child</b></i>	<i><b>THEN the ACCESS Florida CIC</b></i>
<i><b>is no longer Title IV-E eligible</b></i>	CIC no longer determines Title IV-E eligibility.
<i><b>Remains Title IV-E eligible after a change occurs</b></i>	

5-5. Partial Eligibility Reviews.

a. A partial review of eligibility must be completed when there are changes in the child's circumstances that may affect his or her Title IV-E eligibility. Examples of changes that may affect a child's Title IV-E eligibility include:

- (1) Placement into an unlicensed or provisionally licensed setting.
- (2) Child moves into ineligible living arrangement.
- (3) Child turns age 18.
- (4) Child's parents begin living together in the same family setting in which the child was living at the time of the child's removal from the home or voluntary placement.
- (5) Child's income changes.
- (6) Child receives countable assets.
- (7) Child is discharged from foster care.

b. Partial reviews may be scheduled or unscheduled. The ACCESS Florida CIC specialist will schedule a partial review on the Expected Change screen (AWEC) when he or she becomes aware of an anticipated change that may affect eligibility.

5-6. Reviewing Eligibility of the Child When There is a Temporary Break in Licensed Out of Home Care Placement. When a child temporarily leaves licensed foster care, then returns to a licensed out of home care placement, certain factors must be assessed to determine if the child's return to licensed foster care is a continuation of the most recent removal episode OR a new removal.

a. In making this decision, the Revenue Maximization specialist must determine the following based on information supplied by Revenue Maximization staff:

(1) Is the child in licensed foster care?

(2) Is the original court order or voluntary licensed placement agreement still in effect in relation to the removal of the child from his/her home?

(3) Is the child still under the placement and care responsibility of the Department?

b. If all of these conditions are met, even though there has been a temporary interruption of the foster care placement, the eligibility of the child (for the removal month) should not be reviewed.

c. If the child leaves out of home care and returns home (the home from which he/she was removed), the child is not considered to be in foster care status, even if the Department or CBC lead agency maintains a supervisory role with the child and family. In the event the child returns to foster care, a new determination of the child's eligibility based on circumstances at the time of the new removal is required.

d. If the child leaves out of home or foster care to live with a relative:

(1) The Revenue Maximization specialist must determine whether:

(a) The child remains in foster care status; or,

(b) Whether the home of the relative is now considered to be the child's own home.

(2) If it is determined that the child is still in foster care status, this is considered as a continuation of the removal episode, and therefore the child's eligibility status may remain the same. If permanency has been achieved with the relative, a new determination of the child's eligibility based on circumstances at the time of the new removal is required.

e. Trial home visits to a child's home are not considered interruptions in the foster care status, unless the "trial home visit" lasts for more than six months without a court order extending the visit.

f. If the child leaves the foster home and is placed in a state training school or similar facility for a temporary period, and the removal court order is still in effect, a new determination of the family's eligibility is not required when the child returns to the foster home.

g. When there has been a break in licensed foster care placement, and the child is being evaluated for continued IV-E eligibility status, a determination must be made regarding licensing status of placement, continued deprivation and financial need, and REFPP finding.

5-7. Medicaid Eligibility for Title IV-E Children – General Policies and Procedures. [42 U.S.C. 672(h), 673(b)(1)(B)(2)] Children eligible under Title IV-E are “deemed” eligible for Medicaid. The FLORIDA system category for Title IV-E benefits is CICF; the related Medicaid category is MCFE.

an Initial Eligibility Determination by ACCESS Florida Services.

(1) The responsibility of Revenue Maximization staff includes:

(a) Requesting an eligibility determination by submitting a completed Child in Care Medicaid Application (form CF-ES 2626A) to the ACCESS Florida CIC unit.

(2) The responsibilities of ACCESS Florida CIC staff include:

(a) Determining the child’s eligibility for the Medicaid benefits.

(b) Completing whatever steps are necessary to place the child on the FLORIDA system and authorize the Medicaid immediately upon notification that the child is in licensed out-of-home care.

(c) Entering the information into FLORIDA for use by Child Support Enforcement.

(d) Instituting Systematic Alien Verification Eligibility (SAVE) requirements for all non-citizen children in care of the Department.

b. Medicaid Eligibility of Title IV-E Children Placed in Another State by Florida. Federal regulations under the Consolidated Omnibus Reconciliation Act of 1985 (COBRA) require that the board payments for the Department’s children placed out of Florida be paid by the sending state. However, the Medicaid must be paid by the receiving state. ACCESS Florida CIC specialist will determine eligibility for these children and notify Revenue Maximization staff of the outcome via a manual notice. No Florida Medicaid card is generated for these children. ACCESS Florida CIC specialist will indicate on the ACFC screen that the child has been placed in another state. The state in which the child resides is responsible for generating Medicaid coverage for the child.

c. Medicaid Eligibility for Title IV-E Children Placed in Florida by Another State.

(1) Medicaid benefits are paid by the receiving state. FLORIDA provides Medicaid eligibility for these children while providing no coverage under Title IV-E. The FLORIDA ACFC screen collects information regarding the child’s Title IV-E eligibility and placement in Florida by the other state. No independent evaluation of the child’s eligibility is made. The ACCESS Florida CIC specialist will issue a Florida Medicaid card based on the sending state’s determination of child’s Title IV-E status.

(2) A child does not have to reside in a licensed placement to be Medicaid eligible. According to Child in Care policy, children who are eligible for Title IV-E are “deemed” recipients for Medicaid and no independent Medicaid determination is made. Therefore, when the Department or an agency becomes aware that a Title IV-E child has been placed in an unlicensed foster home in Florida, Medicaid for the child should be authorized with no independent evaluation.

(3) In these cases, it is possible that the request for Medicaid may be made directly by the foster parent, a letter from the sending state, or through a request by the Interstate Compact for the

Placement of Children (ICPC) liaison. The ACCESS Florida CIC specialist must take whatever steps are necessary to place the child on FLORIDA and authorize the Medicaid immediately upon notification that the child has entered the state.

d. Retroactive Medicaid Eligibility. Refer to CFOP 165-22, ACCESS Florida Program Policy Manual, Chapter 2000, for policies and procedures regarding retroactive Medicaid eligibility.

e. Ex-parte Determination. An ex-parte determination is the process by which the Medicaid eligibility of an assistance group or individual who is no longer under a particular coverage group is assessed to determine if eligibility exists under a different coverage group. Refer to CFOP 165-22, Chapter 1200, Section 1235.00, Ex-parte Determinations.

5-8. Medicaid Eligibility for Non-Title IV-E Children. [409.903, F.S.] If the child is ineligible for Title IV-E, then the child will meet eligibility requirements for the related Medicaid coverage (MCFN) on FLORIDA.

a. The specific technical eligibility criteria for this Medicaid coverage group are:

(1) Age. The child must be under 21 years of age and not emancipated.

(2) Residence. The child resides in a licensed facility.

(3) Citizenship. U.S. citizen or a qualified/eligible non-citizen. Revenue Maximization staff must complete a Declaration of U.S. Citizenship or Qualified Non-Citizen Status (form CF-ES 2058, available in DCF Forms) and forward it to the CIC unit with the CIC Title IV-E and Medicaid Application or the CIC Medicaid only application, along with documentation of identity and citizenship/qualified non-citizen status. The ACCESS Florida CIC institutes SAVE requirements for all non-citizen children in care of the Department.

(4) Deprivation. Not applicable.

(5) Living in the Home of a Specified Relative. Not applicable.

(6) Filing Unit. Each child is a separate filing unit.

(7) Welfare Enumeration. The child's Social Security Number or Revenue Maximization statement that the application for a Social Security Number was filed and the date filed.

(8) Child Support Enforcement. Revenue Maximization staff must provide the ACCESS Florida CIC specialist with information on the absent parent(s). The ACCESS Florida CIC specialist will enter the information into FLORIDA for use by Child Support Enforcement staff.

b. Financial eligibility requirements for this Medicaid coverage group are:

(1) Assets. All assets count unless specifically excluded by policy in CFOP 165-22, Chapter 1600. Revenue Maximization staff is responsible for obtaining the documentation that verifies the assets. The documentation must be filed in the child's case file.

NOTE: Money or property in a child's Master Trust account or sub account is excluded as countable assets.

(2) Income. All income (earned and unearned) of the child counts unless specifically excluded or disregarded as directed by policy in CFOP 165-22, Chapters 1800 and 2600. Revenue Maximization staff are responsible for obtaining the information verifying income. The verified



information must be filed in the child's case file. NOTE: child support money collected by the state is considered unavailable to the child and thus is not counted.

c. Income and asset limits by Medicaid coverage group are as follows:

(1) Medicaid for Non-Title IV-E Children in Foster Care (MCFN). The child's income must be below the current federal poverty level. There is no asset test for this Medicaid group.

(3) Medicaid Eligibility Under Medically Needy (NCFN). FLORIDA supports this coverage group if the child is in FLORIDA living arrangement code 28, foster care status. If the child's income exceeds the income limit, the child is enrolled in Medically Needy with a share of cost. The share of cost is the difference between the child's adjusted income and the income limit for Medically Needy. See CFOP 165-22, Chapter 2000.

d. Medicaid Eligibility for Non Title IV-E Children Placed in Florida by Another State. When a Non Title IV-E child is placed in Florida by another state the sending state is responsible the child's Medicaid coverage. Refer to CFOP 165-22, Chapter 1400, Section 1415, Residency (1415.05.15, Interstate Placement (CIC)).

e. Ex-parte Determination. An ex-parte determination is the process by which the Medicaid eligibility of an assistance group or individual who is no longer under a particular coverage group is assessed to determine if eligibility exists under a different coverage group. Refer to CFOP 165-22, Chapter 1400, Section 1414, Residency (1415.05.15, Interstate Placement (CIC)).

5-9. Independent Living. [65C-28.009, F.A.C.] Subsidized Independent Living is a program for foster children age 16 or 17 who demonstrate an ability to handle independence.

a. The criteria for subsidized independent living as specified in s. 409.1451(3)(c), F.S., include:

(1) Adjudicated dependent under Chapter 39, F.S.;

(2) Placed in licensed out of home care for at least 6 months prior to entering subsidized independent living;

(3) Permanency goal of adoption, independent living, or another planned permanency living arrangement, and,

(4) Able to demonstrate independent living skills, as determined by the case manager, using established procedures and assessments.

b. Medicaid is available for youth in the Subsidized Independent Living Program. The Independent Living Grant is not considered income in determining the child's eligibility for Medicaid. Eligibility for Medicaid mirrors that of any other foster care child.

c. Services for young adults formerly in foster care are described in s. 409.1451(5), F.S. The law describes eligibility requirements and the service array. Young adults formerly in foster care who are recipients of the services described in 409.1451(5), FS, are also eligible for Medicaid benefits.

## CONSOLIDATED NEEDS STANDARD

SIZE										
Eff.	7/96	7/95	7/94	7/93	7/92	7/91	7/90	7/89	7/88	6/87
1	645	623	614	581	568	552	524	498	480	458
2	864	836	820	786	766	740	702	668	644	617
3	1082	1050	1027	991	965	928	880	838	807	775
4	1300	1263	1234	1196	1163	1117	1059	1008	970	933
5	1519	1476	1440	1401	1361	1305	1237	1178	1134	1092
6	1737	1690	1647	1606	1560	1493	1415	1348	1297	1250
7	1955	1903	1854	1811	1758	1682	1594	1518	1460	1408
8	2174	2116	2060	2016	1956	1870	1772	1688	1624	1567
9	2392	2330	2267	2221	2155	2058	1950	1858	1787	1725
10	2610	2543	2474	2426	2354	2247	2129	2028	1950	1883
ADD*	218	214	207	205	199	188	179	170	163	158

\* For each additional member beyond 10 add this amount to the Consolidated Need Standard.

Revised December, 1997

## Deprivation of Parental Care

One of the Title IV-E Foster Care eligibility factors is parental “deprivation”. The child must be deprived of the support or care of one of both parents. Deprivation of parental support or care may exist in any of the following situations:

- Parental absence from home
- Parental unemployment or underemployment
- Parental incapacity

**Parental Absence from home** may be due to any of the following:

- Death
  - Separation or divorce
  - Desertion
  - Incarceration
- If child is living with a relative at the time of removal, and one or both parents were absent from that home deprivation exists, even if the parents reside together in another location.
- If the Department has permanent custody as a result of termination of parental rights of the child, this factor is met.

### **Parental unemployment or underemployment**

One parent must be determined to be the **principal wage earner**, i.e. the parent who earned the greater amount of income in the 24-month period prior to the child’s removal from the home. The principal wage earner must also have **sufficient work history** – has worked six or more quarters within the last 13 calendar quarters.

- Unemployment = not working
- Underemployment = working less than 100 hours per month

### **Parental incapacity** (of one or both parents):

Incapacity is established by one of the following:

- Receipt of Social Security Disability (SSDA) or Supplemental Security Income (SSI) benefits on the basis of disability or blindness.
- Parent has an emotional or psychological condition that prevents them from working or providing appropriate care and ensuring safety for their child. Must have a psychological evaluation for documentation of this condition.

#### Documentation of incapacity:

Parent has an illness or injury that lasts for at least 30 days. Must have written verification from a medical professional describing the illness/injury and the expected length of time that it would take to resolve the problem.

Information for determining incapacity must be provided to the child in care specialist for a determination of incapacity (Medical Evidence for Incapacity – CFOP 165-22, 1430.20.50.50): Medical sources of information for determining incapacity include hospitals (medical or psychiatric), Social Security Administration, Veteran’s Affairs Administration, Vocational Rehabilitation and/or Chiropractor.

## Chapter 6

### ADOPTION SERVICES

#### 6-1. Title IV-E Federal Adoption Assistance. [P. L. 96-272; P. L. 104-188; P. L. 105-89; 42 U.S.C. 673]

a. The Title IV-E Adoption Assistance Program is for children with special needs who meet eligibility requirements for Aid to Families with Dependent Children (AFDC) or the Supplemental Security Income (SSI) program. The federal adoption assistance program assists states in placing special needs children in adoptive homes, thereby achieving permanency for more children and reducing foster care caseloads.

b. Under this program, the State of Florida provides maintenance adoption subsidy payments for special needs children and reimbursement to adoptive parents for non-recurring expenses incurred in the adoption process such as court costs and attorney fees. All applicable non-recurring expenses up to the state maximum of \$1,000 are Title IV-E reimbursable regardless of the child's IV-E eligibility status.

c. A child receiving Title IV-E maintenance adoption subsidy is eligible for Medicaid coverage.

d. Maintenance adoption subsidy payments to the adopting parents and Medicaid benefits for the child become available at the point that the adoption assistance agreement is signed and the child is placed in the adoptive home.

e. Public Law 103-382, amended by Public Law 104-188, also known as Multi Ethnic Placement Act and the Interethnic Adoption Provisions or MEPA-IEP, added a State Plan requirement to the Social Security Act (section 471(a)(18)) that prohibits the delay or denial of a foster or adoptive placement based on the race, color or national origin of the prospective foster or adoptive parents or the child involved. The Social Security Act also includes a penalty structure and corrective action planning provision for violations. See Chapter 2 of this operating procedure.

f. Public Law 105-89, the Adoption and Safe Families Act of 1997, requires states to assure the development of plans to make reasonable efforts to finalize the permanency plan for children and the effective use of cross-jurisdictional resources to facilitate timely permanent placements for children awaiting adoption. When it is discovered that a state agency or entity responsible for handling a case has denied or delayed the placement of a child for adoption when an approved family is available outside of its jurisdiction, the state is considered to be in violation of the provisions of the law and may be subject to penalties. See Chapter 2 of this operating procedure.

g. Public Law 105-89 also includes a safety provision for children placed in foster and adoptive homes. The provision requires that the Department conduct a criminal records check on prospective adoptive parents prior to approving the adoptive family placement for a child. This provision became effective October 1, 1998. Also see Chapter 65C-16, Florida Administrative Code.

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

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

6-2. Universal Title IV-E Eligibility Requirements. [42 U.S.C. 673, 409.166, F.S., 65C-16, F.A.C.] The Title IV-E adoption subsidy program has specific eligibility requirements that must be met prior to claiming federal reimbursement. The requirements are:

a. It must be determined that the child is one with “special needs” prior to the time the adoption petition is (was) filed. The three criteria listed below must be met and be documented in the child’s file in order to meet the definition of a child with special needs:

(1) A determination has been made that the child must not or cannot be returned to the home of the parents. This is primarily accomplished through a Termination of Parental Rights (TPR) order; **and**

(2) There exists a specific factor or condition that makes it reasonable to conclude that the child cannot be placed for adoption without providing adoption assistance. The specific factors or conditions include a child who is:

- (a) Eight years of age or older; or,
- (b) ~~Mentally retarded~~; Developmentally Delayed or,
- (c) Physically or emotionally handicapped; or,
- (d) Of black or racially mixed parentage (at least one parent is black); or,
- (e) Intellectually Disabled; or,
- (f) Medically Fragile; or,
- (g) Visually/Hearing Impaired; or,
- (h) Medical or Disability requirements for Supplemental Security Income (SSI);

or,

(i) At risk of medically diagnosed condition; or,

(j) A member of a sibling group of any age, provided two or more members of the group remain together for purposes of adoption; **and**

(3) A reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance. Such an effort may include the use of adoption exchanges and referrals to specialized adoption agencies. Exceptions to this requirement include: adoption by the child’s foster parent or relative caretaker due to the establishment of significant emotional ties to that foster parent/caretaker and other circumstances that are not in the child’s best interests. However, the prospective adoptive parent(s) must be asked if they can adopt the child without provision of subsidy. If the parent(s) respond that they cannot adopt without subsidy, the efforts to place without subsidy have been met. The specific factor(s) that make the child difficult to place and a description of the efforts to place a child without subsidy (or the exception) must be documented in the child’s case file.

b. The child must be under the age of 18 years and not emancipated.

c. The initial adoption assistance agreement must be fully executed. Specifically, the agreement must be signed and dated by all parties **prior** to the adoption finalization; must include the amount of the subsidy; must include the estimated amount and nature of the non-recurring benefit; and

must specify the child's name . See paragraph 5-5 of this operating procedure for other mandatory requirements for the agreement.

NOTE: Initial requests for Title IV-E adoption assistance made after finalization of the adoption must be denied. See paragraph 5-8 of this operating procedure.

6-3. Categorical Eligibility Requirements for Title IV-E Adoption Assistance. [ACYF-CB-PA-01-01] In addition to the eligibility criteria listed in paragraph 5-2 of this operating procedure, a child must be eligible in one of the categories listed below.

a. Child Meets Requirements for AFDC Eligibility (Based on Eligibility Criteria in Place on July 16, 1996). When the child's eligibility for adoption assistance is based on meeting the eligibility criteria for AFDC, his/her eligibility must be determined and documented at the time of the most recent removal from his/her home.

(1) Removal Circumstances. The child's latest removal from the home of a specified relative must be the result of a judicial determination (court order) or a voluntary placement agreement.

(a) The court order removing the child from his/her home must have a judicial determination that it is contrary to the child's welfare (CTW) to remain in the home. Effective March 27, 2000, the CTW finding must be made in the first court order that removes the child from the home. When this does not occur the child is ineligible for Title IV-E adoption assistance. The CTW finding must be explicit and made on a case-by-case basis. Nunc pro tunc orders, affidavits, and bench notes are not acceptable substitutes for a court order. However, an official court transcript may be sufficient evidence that a "contrary to the welfare" judicial determination was made.

(b) For children whose most recent removal occurred prior to March 27, 2000, a petition must be filed with the court no later than six months from the date of the removal from a specified relative; the petition must be followed up with a court order indicating that it was contrary to the child's welfare to remain in the home.

(c) A child placed in licensed out-of-home care as the result of a voluntary placement agreement must meet the following conditions in order to be eligible for Title IV-E adoption assistance:

1. The child must be under the placement and care responsibility of the Department or another public agency with which the Department has a Title IV-E agreement.
2. Title IV-E foster care maintenance payments must have been made on his/her behalf.

(d) A child voluntarily relinquished for adoption is eligible for Title IV-E adoption assistance when the following conditions are met:

1. The child must be voluntarily relinquished to the Department (or a public agency with which the Department has a Title IV-E agreement) or to a private, nonprofit agency; and,
2. There is a petition to the court within six months of the time the child last lived with a specified relative; and,
3. There is a subsequent judicial determination (court order) to the effect that remaining in the home was contrary to the child's welfare. As

such, the child will be treated as though s/he was judicially removed rather than voluntarily relinquished.

NOTE: If the petition to remove the child from the home and the subsequent judicial determination do not occur, the child will not be considered judicially removed for the purpose of Title IV-E adoption assistance. Furthermore, if the court merely sanctions the voluntary relinquishment, without making a determination that it is contrary to the child's welfare to remain in the home, the child is not eligible for Title IV-E adoption assistance unless s/he meets the SSI criteria or is a child who received Title IV-E adoption assistance in a prior adoption.

(2) Financial Need. To meet the AFDC criteria, the child must be determined to be a "needy" child at the time of removal. Need exists at the time of removal if the resources available to the family are below \$10,000 and if the family income is below the CNS for the family size. After the child's removal from the home, only the resources and income of the child are considered. Also see Chapter 5 and Attachment 1 to Chapter 5 of this operating procedure.

(3) Deprivation. Deprivation of parental support must be established at the time of removal. Deprivation exists in situations where there is an absent parent, an unemployed or underemployed parent, or a parent with a mental or physical incapacity to the extent that the parent cannot support or care for the child. Also see Attachment 2 to Chapter 5 of this operating procedure.

b. Child Is Eligible For Supplemental Security Income (SSI) Benefits. A child is eligible for Title IV-E adoption assistance if s/he has been determined eligible for SSI prior to the time the adoption petition is filed. The child's eligibility for SSI must be documented in the case file by an award letter or other appropriate documentation from the Social Security Administration. The nature of the child's removal from his/her home is irrelevant in this situation. .

c. Child Is Eligible As The Child Of A Minor Parent. A child is eligible for Title IV-E adoption assistance in this circumstance if the child's parent was in foster care and was receiving Title IV-E foster care maintenance payments that covered both the minor parent and the child at the time the adoption petition is filed. However, if the child and minor parent have been separated in foster care prior to the time the adoption petition is filed, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's individual circumstances.

d. Child Is Eligible Due To Prior Title IV-E Adoption Assistance Eligibility. In situations where a child is adopted and receives Title IV-E adoption assistance, and the adoption later dissolves or the adoptive parent(s) dies, the child continues to be eligible for Title IV-E adoption assistance in a subsequent adoption. Prior to the finalization of the subsequent adoption the Department must determine that the child is one with "special needs". Other eligibility factors must not be redetermined because the child is to be treated as though his/her circumstances are the same as those prior to his/her previous adoption. (This criterion applies to children who are subsequently adopted after October 1, 1997.) The nature of the child's removal leading to the subsequent adoption is irrelevant.

#### 6-4. Documentation of Eligibility for Title IV-E Adoption Assistance.

a. The child's eligibility for adoption assistance must be fully documented in the child's case file. Once the child is determined eligible for Title IV-E adoption assistance, the child remains eligible through the month of their 18<sup>th</sup> birthday or is otherwise emancipated, the adoptive parents are no longer legally or financially responsible for the child, or the child no longer receives support from the adoptive parents.

b. Prior to adoption placement, a child must be screened for potential IV-E eligibility using the Adoption Subsidy Title IV-E Eligibility/Screening Worksheet (form CF-FSP 5146, available in DCF Forms). This form must be completed by the Revenue Maximization staff or designee responsible for



the case, reviewed, and signed by the supervisor. If as a result of this screening, a CIC eligibility determination is warranted, the 2626A form must be completed and forwarded to CIC for an initial IV-E determination or redetermination (see Chapter 5 of this operating procedure).

c. If the child is determined eligible based on meeting SSI criteria, all requirements for SSI benefits should be met and documented prior to the time the adoption petition is filed but must be documented no later than finalization. An award letter from the Social Security Administration is acceptable documentation of the child's SSI eligibility.

d. If the child is determined eligible due to being a child who was previously adopted and received IV-E adoption assistance, that previous IV-E eligibility for adoption assistance should be documented prior to the time the adoption petition is filed but must be documented no later than finalization. Documentation includes, but is not limited to: prior CIC Notice of Case Action, adoption assistance agreement indicating IV-E eligibility, or payment history printout indicating payment of IV-E adoption assistance.

e. If the child is determined eligible due to being the child of a minor parent, this status should be documented prior to the time the adoption petition is filed but must be documented no later than finalization.

f. If the child appears to be eligible for Title IV-E adoption assistance based on AFDC criteria, a final determination of eligibility must be made by the Child in Care Specialist (ACCESS Florida CIC). The child's IV-E eligibility status must be documented at the time of the latest removal.

(1) If the child was eligible for and received Title IV-E foster care payments, a copy of the Notice of Case Action must be placed in the child's adoption subsidy file to document IV-E eligibility at removal.

(2) If a determination for Title IV-E eligibility has not been made for the child (such as a child who has not been in licensed foster care, a child whose cost of foster care was paid via Title IV-A/EA, or IV-E foster care waiver, etc.), a Child in Care Medicaid Application (for CF-ES 2626A) must be completed based on the removal home situation.

g. If after the initial screening, the child appears to be ineligible for Title IV-E adoption assistance, a Child in Care Medicaid Application must be completed based on the removal home situation and submitted to the ACCESS Florida CIC to confirm the child's ineligibility. The child's Maintenance Adoption Subsidy (MAS) may be funded from other available funding sources, as appropriate.

h. A current adoption assistance agreement documents the child's eligibility for Title IV-E, Medicaid and other services agreed upon in the initial assistance agreement and must be signed and dated by all parties **prior** to authorizing adoption assistance payments.

i. Documentation of the child's eligibility for Title IV-E adoption assistance must be maintained and made available for audit purposes. (The Title IV-E Adoption Subsidy Checklist has been developed as a documentation requirement guide; see Attachment 1 to this chapter.)

NOTE: See Chapter 5 of this operating procedure for further details regarding CIC eligibility determinations.

6-5. The Adoption Assistance Agreement. [42 U.S.C. 675(3); 45 C.F.R. 1356.40(b), (e)] Title IV-E Adoption Assistance is available on behalf of a child if s/he meets all of the eligibility criteria **and** the Department enters into an adoption assistance agreement with the prospective adoptive family **prior** to the finalization of the adoption. Florida's Adoption Assistance Agreement (form CF-FSP 5079,

available in DCF Forms) is designed to document the child's eligibility type, the benefits to be provided and the amount of the benefits/assistance to be provided. All of the following requirements must be met prior to making Title IV-E adoption assistance payments:

a. The child's Title IV-E eligibility must be determined and documented on the fully executed adoption assistance agreement.

b. The initial adoption assistance agreement should be signed and dated by the prospective adoptive parent(s) and a Department employee or designee at or prior to the time of placement in the adoptive home; but must be signed and dated by all parties prior to the adoption finalization.

NOTE: Title IV-E adoption subsidy payments must not be made prior to documentation of the child's IV-E eligibility and prior to the adoption assistance agreement being signed and dated by all parties.

c. The amount of the adoption subsidy must be specified in the agreement. This amount shall be determined by taking into consideration the needs of the child and the circumstances of the adopting parent(s).

(1) When negotiating the amount of the adoption subsidy, the amount must never exceed the foster care board payment that would have been paid for that child if the child resided in a foster family home unless approved by the Secretary of the Department. (See Chapter 65C-16, F.A.C., for maximum allowable adoption subsidy payments and approval criteria.)

(2) The amount of the subsidy may be readjusted periodically up to the maximum allowable payment for the child. It may also be reduced, with the concurrence of the adoptive parents, to fit the changing needs of the child and the circumstances of the adoptive parent(s).

(3) If, at the time the child is placed for adoption, the adoptive parent(s) choose not to receive subsidy for the child, they should be encouraged to sign the initial adoption assistance agreement with \$0 subsidy noted. This preserves Title IV-E eligibility for the child in the event that in the future the adoptive parent(s) need subsidy to assist them in meeting the needs of the child. However, if the family decides not to accept adoption assistance and declines to sign the agreement with \$0 subsidy noted, all discussions regarding adoption assistance with the family must be fully documented in the child's file.

(4) The Revenue Maximization or case management staff must request that the family sign an Adoption Subsidy Disclaimer (form CF-FSP 5172, available in DCF Forms) indicating their decision to decline adoption assistance. When the parents fail to enter into an adoption assistance agreement, the child will not be eligible for Medicaid benefits nor can the non-recurring adoption expenses be reimbursed.

d. The nature and amount of any other payments must be specified in the adoption assistance agreement. This includes medical subsidy, and other services and assistance to be provided especially estimated or actual non-recurring adoption expenses. There is no requirement that a maintenance adoption assistance subsidy payment be made for the child to be eligible for Medicaid (Title XIX), social services (Title XX), or for the reimbursement of non-recurring adoption expenses. See further discussion under paragraph 6-6 of this operating procedure.

e. Once the Adoption Assistance Agreement is executed, there are only three circumstances whereby adoption assistance may be terminated. These circumstances are (1) the child has reached the age of 18; (2) the parent is no longer legally responsible for support of the child; or (3) it is determined that the child is no longer receiving support from the parents. (See paragraph 6-13 of this operating procedure.)

6-6. Non-Recurring Adoption Expenses. [42 U.S.C. 673(a)(1)(B)]

a. A child need not be Title IV-E eligible in order for the Department to enter into an agreement with the adoptive parent(s) for reimbursement of non-recurring adoption expenses. Additionally, the child does not have to be under the responsibility for care and placement of the Department. The child must, however, meet the definition of a “special needs child” as defined in paragraph 6-2a(2) of this operating procedure.

b. Non-recurring adoption expenses include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of the special needs child. Other expenses that are directly related to the legal adoption of the special needs child include such costs as physical examinations of the adoptive parents, if required as part of the adoption application process; and reasonable travel expenses. Reasonable travel costs include costs for transportation, lodging and food for the child and the adoptive parents necessary to complete the placement or adoption process. The non-recurring expenses must not have been incurred in violation of state or federal laws and have not been reimbursed from other sources or funds.

c. In order for the Department or lead agency to pay non-recurring adoption expenses, the following criteria must be met:

(1) An initial adoption assistance agreement must be fully executed.

(2) The initial adoption assistance agreement must specifically indicate the nature and estimated amount of the non-recurring expenses to be paid.

(3) The maximum payment allowable for reimbursement of non-recurring expenses is limited to \$1,000 per child. Whether siblings are adopted, separately or together, each child is treated as an individual with separate reimbursement up to the maximum amount of \$1,000 per child.

(4) There shall be no income eligibility requirement for adoptive parents in determining whether payments for non-recurring expenses will be made.

(5) Non-recurring expenses for the adoption of children in the custody of private adoption agencies are also reimbursable, if the child meets the special needs requirement as defined in paragraph 6-2a(2) of this operating procedure and an adoption assistance agreement is executed prior to adoption finalization.

(6) The adoptive parents must provide the Department or lead agency with receipts or with requests for payment from service providers. The adoptive parents shall be advised to hold such receipts until all are received so that a one-time payment covering all expenses can be made whenever possible.

(7) Reimbursements must be made after the adoption is finalized. Every effort must be made to submit the required receipts for reimbursement within three months after the adoption finalization. Payments for non-recurring expenses may be made up to one year following finalization. However, these funds are intended for activities that occur around the time of adoption (as described in paragraph 6-6b above) and are not meant for post-adoption supports, regardless of when the payments are made.

6-7. Reasonable Efforts to Place a Child Without Providing Adoption Assistance. [42 U.S.C. 673(c)(2)(A); 409.166(3)(b), F.S.]

a. The Social Security Act requires that the Department/agency make “reasonable efforts” to place a child for adoption without adoption assistance. However, it was not the intent of Congress that

a child remain unnecessarily in foster care while the Department/agency searches for a family which might be less suitable but is willing to adopt the child without subsidy. The best interests of the child should be the overriding factor even if another, suitable adoptive family has been identified that cannot adopt the child without a subsidy.

b. Documentation of the reasonable efforts to place the child without subsidy include:

(1) Registration of the child on the adoption exchange. When the child is ready for adoption and a prospective family has not been identified, a list of potential families that are willing to adopt the child without subsidy should be sought from the adoption exchange. If no such family is registered on the exchange, the results of the adoption exchange search must be documented in the child's subsidy file.

(2) Consideration of several families for placement of the child and documentation of the outcome(s) in the child's case file. The selection process must take into consideration the best interest of the child and not violate MEPA requirements (see paragraph 6-1e of this operating procedure).

(3) Rationale to support the selection of the family of choice for the child, when that family cannot adopt the child without a subsidy.

c. The exception to making the efforts described in paragraph 6-7b above is when the child is to be adopted by his/her foster parent or relative caretaker with whom he or she has established significant emotional ties. However, the foster parent or relative must be asked if they can adopt the child without subsidy. If they cannot, the efforts to place without subsidy have been satisfied and must be documented in the child's subsidy file. Also refer to Chapter 65C-16, F.A.C.

#### 6-8. Fair Hearings for Denials of Title IV-E Adoption Assistance. [42 U.S.C. 671(a)(12)]

a. Prospective adoptive parents must be informed of the availability of adoption assistance on behalf of special needs children. In order to receive Title IV-E adoption assistance, the assistance agreement must be fully executed prior to the finalization of the adoption. When the request for IV-E adoption assistance is made after the adoption finalization, the request must be denied and the family must be informed of their right to a fair hearing. If the adoptive parents feel they have been wrongly denied benefits on behalf of an adoptive child, they must request a fair hearing within 90 days of notification of denial. Some situations that may constitute grounds for a fair hearing include:

(1) Failure of the Department/agency to notify the prospective adoptive parents of the availability of adoption assistance for special needs children in out-of-home care.

(2) Relevant facts regarding the child, the biological family, or other aspects of the child's background are known by the Department/agency but not presented to the adoptive parents prior to the finalization of the adoption.

(3) The Department/agency denies Title IV-E adoption assistance based upon application of a means test to the adoptive family.

(4) Decrease in the amount of the adoption assistance without the concurrence of the adoptive parent(s).

(5) Denial of a request for a change in the payment level due to a change in the adoptive parent's circumstances.

b. If the fair hearing officer determines that benefits have been wrongfully denied under the Title IV-E adoption assistance program, the effective date of the Title IV-E adoption assistance must not be

earlier than the date the family requested assistance. For cases in which there is no signed and dated adoption assistance agreement, a new adoption assistance agreement must be completed, signed and dated with the current date. A notation must be made showing the intention to revert to the date the benefits were requested and to have the agreement effective as of the benefit request date.

c. There are times when the Department/Agency and the adoptive parents are in agreement that a Title IV-E adoption subsidy should have been paid. Federal regulations require that the undisputed documentary evidence must be presented to the fair hearing officer for review, and a final written determination made by the hearing officer. The effective date of the Title IV-E adoption assistance must not be earlier than the date the family requested assistance.

6-9. Disallowance of Title IV-E Adoption Assistance for Children Who Are Adopted by Biological Parents Whose Parental Rights Have Been Terminated. [42 U.S.C. 673(c)(1)]

a. Children who are adopted by their biological parent(s) are not eligible for Title IV-E adoption assistance in that they do not meet all of the special needs criteria. A special needs child is one who among other things cannot or should not return to the home of his/her parents. While a child may meet the eligibility criteria for Title IV-E adoption assistance with the termination of parental rights order documenting that the child cannot or should not return to the parents, the placement of the child back into the home of the biological parent(s) nullifies such a determination. Thus, a determining factor for Title IV-E eligibility would not be present and IV-E adoption assistance would not be available.

b. While IV-E adoption assistance is not available, temporary cash assistance may be an appropriate form of assistance for such a family in this situation. Temporary cash assistance is available whether or not the biological parent adopted the child. Although the legal relationship was severed by termination of parental rights, the child's blood relationship to his/her family does not terminate.

6-10. Concurrent Payments of Title IV-E Adoption Assistance and Supplemental Security Income (SSI). [42 U.S.C. 673(a)(1)(A)(ii); 20 C.F.R. 404.2035 – .2045 and 416.635 – .645]

a. The adoptive parents of a disabled child may apply for both Title IV-E adoption assistance and SSI on behalf of the child, and if eligible, receive both forms of assistance after finalization of the adoption.

b. Title IV-E eligibility must be determined prior to the signing of the initial adoption assistance agreement and documented on the initial assistance agreement. The following steps must be taken when a child is IV-E eligible and receiving SSI:

(1) For a child that is receiving SSI at the time of placement in the adoptive home, prior to the adoption finalization, the Department/agency continues to be the payee for the child's SSI benefit. The maintenance adoption subsidy shall be paid from state funds and be offset by/deducted from the child's SSI benefits, as this is considered the child's cost of care. The SSI benefits in excess of the maintenance adoption subsidy/cost of care must be deposited into the child's trust fund account (see CFOP 175-59).

(2) The initial adoption assistance agreement must be notated "Title IV-E" even though the adoption assistance expenditure will be paid out of non-Title IV-E funds until finalization. This is necessary to ensure that the Department does not collect revenue from both federal programs. Thus, the expenditure type code shall be "411" in ICWSIS and "Non IV-E" in FSN until finalization.

(3) At finalization, the adoptive parents must be advised to contact the local Social Security Administration (SSA) office and apply to be the designated representative payee of the SSI benefit for their child and to inform the SSA of the maintenance adoption subsidy payments made on

behalf of the child. SSA will consider the adoptive parents' income as part of the eligibility criteria for the child's continued SSI eligibility. If SSA determines the child to be SSI eligible based on the child's continued disability and the income of the adoptive parents, then SSA will deduct the amount of the Title IV-E adoption assistance payment from the SSI benefit amount. The difference will be the amount of the SSI benefit for the child to be paid to the adoptive parents.

Example:	\$545.00	SSI benefit
	- 320.00	Title IV-E adoption assistance payment
	<u>\$225.00</u>	SSI benefit for the child at finalization

(4) At finalization of the adoption, the subsidy payments will be changed to Title IV-E, "IV-E" in FSN.

(5) After finalization of the adoption, the court's direction should be sought regarding the money held in the child's trust fund account. Also see CFOP 175-59, Master Trust for Benefit of Family Safety Program Clients.

(6) The child's adoption counselor must explain to the adoptive family how Title IV-E and SSI work together so that the family can make an informed decision regarding receipt of one or both funding sources. If the adoptive parents decline Title IV-E adoption assistance and choose only to receive SSI, an initial adoption assistance agreement shall still be completed, specifying \$0 in the Title IV-E subsidy section. This must be done in order to preserve Title IV-E eligibility if the adoptive parents later need assistance. The assistance agreement must also be in place for the reimbursement of non-recurring adoption expenses.

#### 6-11. Medicaid Coverage for Title IV-E Eligible Children. [42 U.S.C. 673(b)(1)]

a. A child that has been determined eligible for Title IV-E adoption assistance is also eligible for Medicaid coverage, without regard to the family income. Medicaid benefits become available at the point the adoption assistance agreement is signed and the child is placed in the adoptive home.

b. A child's Medicaid eligibility must be re-determined every 12 months. As long as the child has an adoption assistance agreement in effect, he or she will remain eligible for Medicaid, without regard to family income. At a minimum, the adoptions counselor or designee must inform the ACCESS Florida CIC via the Child in Care Eligibility Review and Change Report (for CF-ES 2694, available in DCF Forms) that the child is still in the adoptive placement and that there is an adoption assistance agreement on file. The ACCESS Florida CIC will complete the annual Medicaid eligibility review and forward a Notice of Case Action to be filed in the child's file.

NOTE: If the Adoption Assistance Agreement is terminated prior to the child's 18<sup>th</sup> birthday, the ACCESS Florida CIC must be notified.

c. Title IV-E and Medicaid allows the child to receive Medicaid coverage anywhere in the United States. This is especially valuable if a child receives Title IV-E adoption assistance from the state of Florida and then moves to another state. In this situation, Florida will continue to pay the adoption subsidy; however, Medicaid coverage will be terminated in Florida and started in the child's new state of residence.

d. When a Title IV-E eligible child moves out of Florida, the Community Base Care adoption case manager or designee must assist the parents in obtaining adoption assistance Medicaid in the new state. This involves following procedures established in support of the Interstate Compact on Adoptions and Medical Assistance (ICAMA) as per s. 409.401, F.S. The CBC adoption case manager or designee should complete appropriate documentation and process as instructed by the Office of Family Safety headquarters specialist.

e. If a child is not Title IV-E eligible and moves to another state, the parents, with the assistance of the Department/agency, must contact the new state to ascertain whether that state will provide its Medicaid services to the child via the ICAMA. If not, the child's Florida Medicaid will continue. The parent must locate a physician that will accept Florida Medicaid in the child's new state of residence. The physician must request and be approved as a Florida Medicaid provider, then submit an invoice to Florida for payment. The parent must be advised and encouraged to obtain information and documentation necessary to process the medical claims.

f. When a child is receiving an adoption assistance funded with Title IV-E dollars, and therefore is eligible for Medicaid under Title IV-E category, the adoptive parents shall be advised that Medicaid service providers must be used when such are available in the family's community.

6-12. Disruption/Dissolution of Placement in the Adoptive Parents' Home. [P. L. 105-89; 42 U.S.C. 673(a)(4)(B)] There are times when conflict arises in the adoptive home which necessitates the placement of the child into licensed out of home care. When this occurs, a determination must be made whether to pay the foster care expenditures from Title IV-E or non-Title IV-E funds. The following situations are provided as examples to assist in this determination:

a. When the adoptive placement has not been legally finalized through the court, the child remains in the latest removal episode. The same factors considered at the time of the child's latest removal shall again be considered. If, at the time of the most recent removal, the child was Title IV-E foster care eligible, the child shall again be Title IV-E eligible. The ACCESS Florida CIC must be notified of the child's placement status and of any other changes in the child's circumstances. Should the child continue to be Title IV-E reimbursable, foster care expenditures shall be coded Title IV-E. If the child were not eligible at that point of his/her latest removal from home, more than likely eligibility would not exist at the time of the adoption disruption. However, the Title IV-E screening process must be completed again, in case federal policy has changed or an error was made in the earlier eligibility determination.

b. When a child enters foster care from a finalized adoption placement, the child's eligibility for Title IV-E foster care is based on the child's removal from the home of the adoptive parent(s).

c. However, in situations where a child is adopted and receives Title IV-E adoption assistance, but the adoption later dissolves or the adoptive parents die, the child may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. The only determination that must be made prior to the finalization of the subsequent adoption is whether the child is a child with special needs. See paragraph 6-3d of this operating procedure.

6-13. Making a Decision to Terminate or Continue Title IV-E Adoption Assistance. [Social Security Act, section 473(a)(4)(B), ACYF-CB-PA-01-01]

a. Title IV-E adoption assistance payment must be terminated if the state determines:

(1) That the adoptive parents are no longer legally responsible for the support of the child. A parent is considered no longer legally responsible for the support of a child when parental rights have been terminated or when the child becomes an emancipated minor, marries, or enlists in the military; or,

(2) That the child is no longer receiving any support from the adoptive parents. "Any support" includes various forms of financial support. The Department/agency may determine that payments for family therapy, tuition clothing, maintenance of special equipment in the home, or services for the child's special needs are acceptable forms of financial support. If the parent(s) are visiting the child while the child is in out of home care, or paying child support or maintaining the home for the child's return and the child's case plan goal is reunification, the parents should be considered as

providing support to the child. Consequently, the Department/agency must continue the Title IV-E adoption assistance if it determines that the parent(s), are in fact, providing some form of financial support to the child; or,

(3) That the child has turned age 18.

b. The conditions listed in paragraph a above are the only basis in the Social Security Act for terminating adoption assistance payments on behalf of a child unless termination is requested or agreed to by the adoptive parents. On the other hand, there is nothing to prevent the Department/agency or court from requesting or ordering the parents to contribute toward the cost of the child's care in the same manner as any other parents of children in an out of home care situation.

c. The following shall be considered when making a decision to continue or cease or suspend Title IV-E adoption assistance payments:

(1) Do the adoptive parents continue to be legally responsible for the child?

(2) Do the adoptive parents continue to provide support in the form of clothing, personal items, family therapy, tuition, maintenance of special equipment in the home, or services for the child's special needs, and in other ways exercise parental responsibility in terms of maintenance of the child's home and planning for the future?

(3) Are the adoptive parents involved in the child's treatment and anticipate the return of the child to their home?

6-14. Continuation of Title IV-E Adoption Assistance Payments for a Child Whose Adoptive Parents Are Deceased.

a. In accordance with section 473 of the Social Security Act, Title IV-E maintenance adoption subsidy payments may be made only to a parent or parents who adopts an eligible child. Both the Act and the Code of Federal Regulations specify that Title IV-E adoption assistance payments are made to adoptive parents who have entered into an adoption assistance agreement with the Department. This requirement precludes payments to persons other than the adoptive parents who have entered into such an agreement.

b. If the adoptive parents designated a guardian or another relative to care for the child in the event of the parents' death and the guardian or relative adopts the child, the procedures for determining eligibility under Title IV-E must be followed. See paragraph 6-3d of this operating procedure.

6-15. Private Agency Participation in Title IV-E Adoption Assistance, Medicaid, and Non-Recurring Adoption Expenses. [42 U.S.C. 673(b)(1); ACYF-CB PA 01-01]

a. Children in the custody of private agencies and children adopted through an independent adoption may also be eligible for Title IV-E adoption assistance and Medicaid.

b. The eligibility requirements listed in paragraphs 6-2 and 6-3 of this operating procedure must be met in order for these children to be eligible for Title IV-E adoption assistance.

6-16. Inter-Jurisdictional Barriers. [Section 422 (b) (12), SSA] The Adoption and Safe Families Act (ASFA) prohibits delays or denials of adoptive placements across state or county jurisdictions. Any delays or denials will incur penalties in Title IV-E funding to the state. This applies not only to the Department but to public and private agencies as well.



6-17. Responsibilities of Department and Other States' Agencies in Interstate Adoptions. If a state Title IV-E agency has responsibility for placement and care of a child, that state is responsible for entering into the adoption assistance agreement and paying the Title IV-E adoption subsidy for the child. However, if the child is not under the placement and care responsibility of the state Title IV-E agency, the child welfare agency in the adoptive parents' state of residence is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and paying the subsidy. This is consistent with the way other public benefits are paid.

6-18. International Adoptions. [ACYF-CB PA 01-01]

a. The Federal adoption assistance program under Title IV-E was intended to assist states in placing children with special needs in the public foster care system with adoptive families. As a result, the statutory requirements for Title IV-E are geared to needy children in public child welfare systems and are difficult, if not impossible, to apply to children who are adopted abroad. Therefore, although the federal statute does not categorically exclude these children from IV-E participation, it is highly improbable that children brought into the United States from another country for the purpose of adoption will meet the criteria established in section 473 of the Social Security Act for Title IV-E adoption assistance eligibility.

b. The eligibility requirements listed in paragraphs 6-2 and 6-3 of this operating procedure must be met in order for these children to be eligible for Title IV-E adoption assistance.

c. Reimbursement of adoption nonrecurring expense may be made (per paragraph 6-6) if the child is determined to be a child with special needs as outlined in paragraph 6-2 of this operating procedure.

### Title IV-E Adoption Subsidy Checklist

All documents are required, unless otherwise indicated, and must be in subsidy files.

#### Generic Documentation – *pertinent to all subsidy files*

- Dependency PDS and JRSSR (*optional - may contain information pertinent to eligibility determination*)
- TPR Petition (*optional - may contain information pertinent to eligibility determination*)
- TPR Order on all parents
- Completed Adoption Subsidy Title IV-E Eligibility/Screening Worksheet
- CF-FSP 5079 **Initial** Adoption Assistance Agreement - (*meets all requirements: signed and dated by all parties prior to IV-E payments and prior to adoption finalization, with child's name, type and amount of subsidy, and amount and nature of other payments including nonrecurring benefit and medical subsidy*)
- Amount of adoption assistance does not exceed actual foster care board rate including supplementals such as medical without documented approval by the Secretary of the Department.
- Efforts to place without subsidy: \_\_\_\_\_
- Child's "special needs" criteria/factors: \_\_\_\_\_
- Documentation of Citizenship Status (*Birth Certificate, Declaration of Citizenship, etc.*): \_\_\_\_\_
- Petition for Adoption finalization (Date of Petition: \_\_\_\_\_)
- Final Judgment of Adoption Order (for finalized adoptions)

#### Documentation of Criminal Background Screenings (*for adoptive placements on and after 10-1-98*):

- National/Federal (Date results were received: \_\_\_\_\_)
- State (Date results were received: \_\_\_\_\_)
- Local (Date results were received: \_\_\_\_\_)
- Florida Abuse Registry checks for all adoptive placements (Date results were received: \_\_\_\_\_)
- Abuse Registry (Adam Walsh) checks in all other relevant states for adoptive placements on and after 10-1-2006 for all household members who have lived in another state during the previous five years (Date results were received: \_\_\_\_\_)

#### SSI-Related Documentation (if eligibility based on receipt of SSI by child)

- Award letter from the Social Security Administration (*Eligibility for SSI must be determined prior to the time of the adoption petition for finalization.*)

#### Prior Eligibility for Title IV-E Adoption Assistance (*Applies to children adopted after 10-1-97*)

- Documentation of child's previous eligibility for IV-E Adoption Assistance
- Date of Prior Adoption: \_\_\_\_\_
- List Documentation: \_\_\_\_\_

#### AFDC-Related Documentation

- Copy of Child in Care Medicaid and Title IV-E Application (aka Request For Assistance - RFA)
- Notice of Case Action from Child in Care stating AFDC/IV-E eligible at the time of the most recent removal (Date of Removal: \_\_\_\_\_)

For adoptions prior to 10/01/2005

- Notice of Case Action from Child in Care stating AFDC/IV-E eligible at the time of the Adoption Petition (Date of Petition: \_\_\_\_\_)
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**Judicial Removal:**

- Shelter Petition (*Optional, unless the information in petition documents “removal home” eligibility criteria*)
- Shelter/Removal Order – must contain “contrary to the welfare” language

**Voluntary Removal** (*temporary, licensed out-of-home/foster care placement*):

- Voluntary Placement Agreement (Date signed: \_\_\_\_\_)
- Court Order within 180 days of voluntary placement that contains “contrary to the welfare” language (Date of order: \_\_\_\_\_)

**Voluntary Surrenders** (*surrendering parental rights*)

- Voluntary Surrenders (Date signed: \_\_\_\_\_)
  - Petition to the court to remove the child from the home within 6 months of the time the child lived with a specified relative. (Date of Petition: \_\_\_\_\_)
  - Subsequent court order indicating that remaining in the home was contrary to the child’s welfare. (Date of Court Order: \_\_\_\_\_). *Title IV-E requirements are not met until the court order is executed.*
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BY DIRECTION OF THE CHIEF EXECUTIVE OFFICER:



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PHILIP J. SCARPELLI  
Chief Executive Officer  
Brevard Family Partnership Family of Agencies

APPROVAL DATE: 8/14/2020

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