



State of Florida
Department of Children and Families

Charlie Crist
Governor

George H. Sheldon
Secretary

DATE: September 3, 2010

TO: Regional Directors

THROUGH: Pete Digre, Assistant Secretary for Operations
David L. Fairbanks, Assistant Secretary for Programs

FROM: Alan Abramowitz, State Director, Office of Family Safety

SUBJECT: CFOP 175-71, Title IV-E Foster Care and Adoption Assistance
ACTION REQUIRED: Please Share CFOP 175-71 Changes with Appropriate Staff
EFFECTIVE DATE: Upon Receipt

PURPOSE: This purpose of this memorandum is to provide information about revisions to the Title IV-E Foster Care and Adoption Assistance operating procedure, CFOP 175-71.

BACKGROUND: CFOP 175-71 provides Title IV-E eligibility determination guidance on foster care and adoption assistance for children served by the Department and Community Based Care (CBC) agencies. The revisions and clarification are based on recommendations from the Administration for Children and Families and focus primarily on eligibility for adoption assistance.

Chapter 6, Adoption Assistance, includes the changes to eligibility requirements provided by the Fostering Connections to Success and Increasing Adoptions Act of 2008. Although these provisions were implemented on October 1, 2009, the revised operating procedure provides further clarification and ensures the Department and its partners are compliant with the Title IV-E State Plan requirements.

Changes to the operating procedure include:

- A restructured chapter 6, Adoption Services, to include the changes to eligibility requirements provided by the Fostering Connections to Success and Increasing Adoptions Act of 2008. This law provides a nine-year transition period during which a child is treated as (1) "an Applicable Child" or (2) a "Not Applicable Child." The critical event for determining which path to use for the child's eligibility is the date the adoptive parent(s) and CBC enter into the adoption agreement.
- A new Title IV-E Maintenance Adoption Assistance Checklist for Applicable Child

1317 Winewood Boulevard, Tallahassee, Florida 32399-0700

Mission: Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

- Updates to indicate that Department forms used for Title IV-E eligibility determination are available in DCF Forms on either the Intranet or Internet, and in the eligibility module in Florida Safe Families Network (FSFN).
- Deletion of references to s.409.166, F.S., which addresses state-funded adoption assistance.

The revised CFOP 175-71 will be available on the Department intranet and internet.

ACTION REQUIRED: Please share the attached copy of CFOP 175-71 with all staff within the Department, Sheriff Offices and Community-Based Care lead agencies and their subcontracted entities 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 others responsible for data management and fiscal operations.

CONTACT INFORMATION: If there are questions about this matter, please contact Mukweso Mwenene via e-mail at Mukweso_Mwenene@dcf.state.fl.us or by telephone at (850) 922-0510, or Minnie Jenkins at (850)922-6030 or via e-mail at Minnie_Jenkins@dcf.state.fl.us.

Attachment

CF OPERATING PROCEDURE
NO. 175-71

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, August 24, 2010

Family Safety

TITLE IV-E FOSTER CARE AND ADOPTION SUBSIDY

This operating procedure provides guidance for determining eligibility and using Title IV-E funding in child welfare programs.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

DAVID L. FAIRBANKS
Assistant Secretary for
Programs

SUMMARY OF REVISED, DELETED, OR ADDED MATERIALS

This operating procedure includes policy changes from the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351) and clarifications to ensure conformance with Title IV-E adoption requirements. The changes to this edition of the operating procedure focus primarily on eligibility for adoption assistance. Chapter 6 includes changes to eligibility requirements.

This operating procedure supersedes CFOP 175-71 dated March 5, 2010.

OPR: PDFS

DISTRIBUTION: X: OSES; OSLS; PDES; PDFS; Region Family Safety staff; Region Economic Self-Sufficiency Services staff.

CONTENTS

Paragraph

Chapter 1 – GENERAL REQUIREMENTS

Purpose..... 1-1
 Scope..... 1-2
 Legal Authority..... 1-3
 Child Welfare Services Funded with Title IV-E 1-4
 Federal Reimbursement..... 1-5
 Medical and Social Services 1-6
 Child Support Collections..... 1-7
 Vouchering..... 1-8
 Coding and Maintenance of Current Eligibility Status 1-9
 File Retention..... 1-10
 Quality Assurance..... 1-11
 Confidentiality..... 1-12

Attachment 1 to Chapter 1: Title IV-E Terms and Explanations

Chapter 2 – TITLE IV-E STATE PLAN COMPLIANCE

Overview 2-1
 The Adoptions and Safe Families Act of 1997 (ASFA) 2-2
 Maintaining Title IV-B Compliance 2-3
 Provisions of the Multiethnic Placement Act and
 the Interethnic Adoption Provisions (MEPA-IEP) 2-4
 Compliance Review 2-5

Chapter 3 – FOSTER CARE SERVICES

Title IV-E Foster Care Services and the Waiver 3-1
 Child in Care Title IV-E and Medicaid Application..... 3-2
 Responsibility for Screening and Completing the Application..... 3-3
 Notice of Case Action..... 3-4
 Title IV-E Technical and Financial Requirements 3-5
 Judicial Requirements..... 3-6
 Removal Home 3-7
 Removal Episode..... 3-8
 Title IV-E Eligibility and Claiming Federal Financial Participation (FFP)..... 3-9
 Dual Eligibility – Determining Title IV-E Eligibility When a
 Child Receives Third Party Benefits..... 3-10
 Voluntary Foster Care 3-11
 Children of Minor Parents in Foster Care..... 3-12
 Adjudicated Delinquents or Status Offender Children..... 3-13
 Title IV-E Reimbursement for Child-Caring/Child-Placing Agencies..... 3-14
 Title IV-E Administrative Costs..... 3-15

Attachment 1 to Chapter 3: Title IV-E Foster Care Checklist

Chapter 4 – ELIGIBILITY UNDER THE TITLE IV-E FOSTER CARE WAIVER

Background..... 4-1
 Legal Authority 4-2
 Use of Title IV-E Foster Care Funds..... 4-3
 Eligibility Determination..... 4-4
 Client Eligibility..... 4-5
 Medicaid Eligibility..... 4-6
 Dual Eligibility: SSI and IV-E Waiver..... 4-7

CONTENTS

Paragraph

Interstate Compact for the Placement of Children (ICPC) 4-8
 Coding and Reporting 4-9
 Title IV-E Maintenance Adoption Subsidy 4-10

Attachment 1 to Chapter 4: Title IV-E Foster Care Waiver (Initial) Checklist
 Attachment 2 to Chapter 4: Instructions for Title IV-E Foster Care Waiver (Initial) Checklist

Chapter 5 – PUBLIC ASSISTANCE

Overview of Program Requirements 5-1
 The Role of ACCESS and Family Safety in Determining Title IV-E Eligibility 5-2
 Eligibility Determination 5-3
 Eligibility Review 5-4
 Partial Eligibility Reviews 5-5
 Reviewing Eligibility of the Child When There is a Temporary Break
 in Licensed Out of Home Care Placement 5-6
 Medicaid Eligibility for Title IV-E Children – General Policies and Procedures 5-7
 Medicaid Eligibility for Non-Title IV-E Children 5-8
 Independent Living 5-9

Attachment 1 to Chapter 5: Consolidated Need Standard
 Attachment 2 to Chapter 5: Deprivation of Parental Care

Chapter 6 – ADOPTION SERVICES

Introduction to Title IV-E Adoption Assistance Eligibility 6-1
 Eligibility for the Applicable Child 6-2
 Eligibility for the Not Applicable Child 6-3
 Additional Eligibility Requirements for the Applicable and Not Applicable Child 6-4
 Documentation of Eligibility for Title IV-E Adoption Assistance 6-5
 The Adoption Assistance Agreement 6-6
 Non-Recurring Adoption Expenses 6-7
 Reasonable Efforts To Place a Child Without Providing Adoption Assistance 6-8
 Fair Hearings for Denials of Title IV-E Adoption Assistance 6-9
 Disallowance of Title IV-E Adoption Assistance for Children Who Are Adopted
 by Biological Parents Whose Parental Rights Have Been Terminated 6-10
 Concurrent Payments of Title IV-E Adoption
 Assistance and Supplemental Security Income (SSI) 6-11
 Adoption Assistance Medicaid Coverage for Title IV-E Eligible Children 6-12
 Disruption/Dissolution of Placement in the Adoptive Parents’ Home 6-13
 Making a Decision to Terminate or Continue Title IV-E Adoption Assistance 6-14
 Private Agency Participation in Title IV-E Adoption Assistance, Medicaid,
 and Non-Recurring Adoption Expenses 6-15
 Inter-Jurisdictional Barriers 6-16
 Responsibilities of Department and Other States’ Agencies in Interstate Adoptions 6-17
 International Adoptions 6-18

Attachment 1 to Chapter 6: Title IV-E Maintenance Adoption Assistance Checklist for
 Applicable Child
 Attachment 2 to Chapter 6: Title IV-E Maintenance Adoption Assistance Checklist for Not
 Applicable Child

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 of Children and Families and Community-Based Care lead agencies that are 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. Eligibility determination for Title IV-E foster care and adoption assistance and Federal Financial Participation (FFP) claiming will be conducted in accordance with the provisions of title 4, part E of the Social Security Act, as amended, the relevant sections of the Code of Federal Regulations, and the United States Department of Health and Human Services, Administration for Children and Families' information memoranda; policy interpretation, policy announcements; and the Child Welfare Policy Manual. Specifically:

(1) 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.

(2) 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, and the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

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

(4) Title IV-E State Plan: Foster Care and Adoption Assistance.

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

(6) 42 CFR, Subpart 435.115, Individuals deemed to be receiving AFDC.

(7) 45 CFR, Parts 1355 through 1357, Foster Care Maintenance Payments, Adoption Assistance and Child and Family Services.

(8) 45 CFR 233.110, Foster Care Maintenance and Adoption Assistance.

(9) Section 1130, Social Security Act, Child Welfare Waiver Demonstration Project.

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

(11) Chapter 63, Florida Statutes (F.S.), Adoption.

(12) Section 409.166, F.S., children within the child welfare system; adoption assistance.

(13) Section 409.1671, F.S., foster care and related services; outsourcing.

b. Statutory background for adoption assistance:

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

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

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

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

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

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

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

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

(9) The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P. L. 110-351) amends section 473 of the Social Security Act to remove Aid to Families with Dependent Children (AFDC) criteria from Title IV-E adoption assistance eligibility requirements.

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.

1-5. Federal Reimbursement. 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 the adoption of a special needs child. Payments for non-recurring items and services are not restricted to Title IV-E eligibility or to receipt of a subsidy. A child does not have to be eligible for Aid to Families with Dependent Children, Title IV-E foster care, or Supplemental Security Income in order for the adoptive parents to receive

reimbursement for their nonrecurring adoption expenses. Nor does the child have to be under the responsibility of the Department for placement and care in order for the adoptive parents to be reimbursed.

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. 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. 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 Integrated Child Welfare Services Information System (ICWSIS), using procedures in the ICWSIS manual, until implementation of the financial module in 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 Integrated Child Welfare Services Information System (ICWSIS) and Florida Safe Families Network (FSFN) – State Automated Child Welfare System.

a. The following eligibility type codes must be used in ICWSIS as applicable:

(1) 50 – Eligible for Title IV-E (no Title IV-E payments being made).

(2) 51 – Eligible for Title IV-E (Title IV-E payments being made).

(3) 52 – Ineligible for Title IV-E.

(4) 53 – Title IV-E Eligibility not determined.

(5) 15 – SSI Recipient (Non-Title IV-E).

(6) 14 – Title IV-E/SSI Eligible (board payment; claiming Title IV-E).

(7) 13 – Title IV-E/SSI Eligible (no Title IV-E board payment; claiming SSI).

b. 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 recorded in FSFN must coincide with the eligibility value recorded in ICWSIS, as applicable. The eligibility values and definitions for use in FSFN are incorporated in the FSFN online documentation.

1-10. File Retention. Title IV-E foster care and adoption assistance records must be retained until the child who is the subject of the records is 30 years of age (see pamphlet CFP 15-7, Family Safety Revenue Maximization Case Records, and Foster Care Case Files). 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 specified 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 until the child who is the subject of the records is 30 years of age. 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.

NOTE: See pamphlet CFP 15-7 for retention schedules that are applicable to the department.

b. Availability of Closed Foster Care and Adoption Records for the Purpose of Federal and State Audits. 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 the CBC lead agency oversees federal funding eligibility, and (2) how the CBC’s Quality Assurance Plans assure that federal funding eligibility claims are appropriate and accurate.

1-12. Confidentiality. 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 and CFOP 50-2.

Title IV-E Terms and Explanations

<u>TERM</u>	<u>EXPLANATION</u>
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.
Adoption Entity	“Adoption entity” means the Department, an agency, a child-caring agency registered under s. 409.176, F.S., an intermediary, or a child-placing agency licensed in another state which is qualified by the Department to place children in the State of Florida.
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.)
Date of Entitlement	The date on which the state becomes entitled to claim federal reimbursement.
Department	The Department of Children and Families.
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.)
Family Safety staff	Department of Children and Families employee(s) assigned to the Office of Family Safety or designated contract provider.

TERM**EXPLANATION**

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.
Intermediary	Intermediary means an attorney who is licensed or authorized to practice in Florida and who is placing or intends to place a child for adoption, including placing children born in another state with citizens of this state or country or placing children born in this state with citizens of another state or country. This is often referred to as independent adoption.
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.
Nonrecurring adoption expenses	The reasonable and necessary adoption fees, court costs, attorney fees and other expenses which are directly related to the legal adoption of a child with special needs, which are not incurred in violation of state or federal law, and which have not been reimbursed from other sources or funds.
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. NOTE: 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.

TERM**EXPLANATION**

Specified degree of relationship	<p>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:</p> <ul style="list-style-type: none"> - Mother - 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.) - Brothers, sisters (including those of half blood) - Aunts, uncles, nieces, nephews - Grandparents, great-grandparents - First cousins (and first cousins once removed) - Stepfather, stepmother, stepbrother or stepsister. - (Note: The parent of a stepparent is not a specified relative.) - 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. - Legal spouses of any persons named in the above groups even though the marriage terminated by death or divorce. - Individuals of preceding generations as denoted by prefixes such as grand, great, and great-great.
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.

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. 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 of competent jurisdiction 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 to prevent removal are not required:

(a) If the parent has 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).

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. Program 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;

(b) Children receive appropriate services to meet their physical and mental health needs; and

(c) Children receive appropriate services to meet their educational 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 permanence 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 CIC specialist using the Child in Care Title IV-E and 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 and in the eligibility module in FSFN.

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 both a Title IV-E eligibility determination and the appropriate category of Child in Care Medicaid. The Child in Care Title IV-E and 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 Title IV-E and Medicaid Application for the eligibility determination. The completed form is submitted to the Child In Care (CIC) unit in the ACCESS Program Office for eligibility determination.

3-4. Notice of Case Action. A Notice of Case Action is generated by the ACCESS Child in Care specialist (CIC) declaring the child's Title IV-E and/or 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 are 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, FL 32399-0700

(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. 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 child's 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**, in order 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, 2000, 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 in regard 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. 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) child is in an ineligible placement; or, 2) 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) 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.

(2) 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. 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 ICWSIS code to use is “13” (Title IV-E /SSI Eligible – no Title IV-E board payment, claiming SSI) and the FSFN 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 (ICWSIS Code 14).

NOTE: When a child receiving SSI benefits enters shelter care, the Social Security Administration must 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.

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. 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. 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, 2000, 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.

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. 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 (5) days of a child entering out-of-home care and the eligibility results input into FSFN.

b. Completion of the Child In Care Title IV-E and Medicaid Application and Declaration of Citizenship forms and submittal to Child In Care (see Chapter 5 of this operating procedure). The CIC Title IV-E and Medicaid Application form requests either a Title IV-E related Medicaid or non Title IV-E Medicaid eligibility determination. 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 presumptive 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 the Medicaid category based on the eligibility determination made by revenue maximization staff and issue a Notice of Case Action for Medicaid. There is no change in program codes: MCFE for IV-E eligible recipient and MCFN for non IV-E 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 Integrated Child Welfare Services Information System (ICWSIS) and the Florida Safe Families Network (FSFN).

a. For children in the system prior to IV-E Waiver implementation on October 1, 2006, it is not necessary to change the ICWSIS codes. Retain the pre-waiver ICWSIS codes for out of home room and board, clothing and respite for foster care, residential group care and emergency shelter, as appropriate.

b. For new clients entering care October 1, 2006 and later, use only the following ICWSIS codes, as appropriate:

(1) For foster home clients, use 010, 013, 014 and 016 (refer to paragraph 1-9 of this operating procedure).

(2) For residential group homes and emergency shelters, use 310, 311, and 312.

(3) For all other licensed care, use new codes 930, 931 and 932.

NOTE: All coded expenditures related to out of home care in ICWSIS were converted to the three out of home care Other Cost Accumulators (OCA) as a result of the IV-E Waiver. These OCA's, LCFHO, LCRGE and LCOTH, are on the OCA Summary Report.

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

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.

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 and Family Safety in Determining Title IV-E Eligibility. The Title IV-E eligibility program is jointly administered by the Office of Family Safety and the ACCESS Program Office. Revenue maximization staff are responsible for collecting and documenting all necessary information for use by Child in Care in determining eligibility. For purposes of this operating procedure, revenue maximization staff may include case managers according to local process. ACCESS Child in Care (CIC) Specialists are responsible for making eligibility determinations based on the information provided by revenue maximization and/or 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 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 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 CIC specialist, with information affecting ongoing eligibility when complete or partial eligibility determinations are due.

b. The responsibilities of ACCESS 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 CIC specialist using the Child in Care Title IV-E and Medicaid Application (form CF-ES 2626A) or the Child in Care Medicaid Application (form CF-ES 2293), as appropriate. The 2626A is specifically designed to capture the information necessary to process a Title IV-E eligibility determination. The 2293 form is specifically designed to capture information pertinent to Medicaid eligibility determination. Cases processed by the ACCESS 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 CIC specialist, 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, notices as well as the Medicaid card will be sent to the revenue maximization staff.

(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 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. The ACCESS CIC specialist determines eligibility for Title IV-E and Medicaid. The eligibility process for Title IV-E foster care (pre-waiver) includes :

(1) Eligibility of the Family. The ACCESS 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 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 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 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.

ADMINISTRATIVE	
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 CIC specialist processes the CIC Medicaid and Title IV-E Application using the FLORIDA system.</p>

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	<p>The ACCESS CIC specialist requests in writing or telephones the revenue maximization staff to obtain the required information.</p> <p>If Revenue Maximization does not reply within 15 days of the request for additional information, the ACCESS CIC specialist must contact the Revenue Maximization staff's supervisor to obtain the information.</p> <p>If required information cannot be obtained, the application must be rejected. However, every effort must be made to determine the child's eligibility.</p>
Complete Eligibility Reviews	Processed every 12 months.
Ten Day Notice Requirement	<p>The 10-day adverse action notice requirement does not apply.</p> <p>The ACCESS 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.</p>
Complete Eligibility Review Form	<p>The Revenue Maximization staff completes the Child in Care Eligibility Review and Change Report (form CF-ES 2694) or CIC Title IV-E and Medicaid Application (form CF-ES 2626A). No face-to-face contact is required.</p> <p>Any changes in income, assets or placement status of the child must be reported within 10 days.</p> <p>Revenue Maximization staff must notify the ACCESS CIC specialist when the judicial determination for Reasonable Efforts to Finalize the Permanency Plan (REFPP) is overdue.</p> <p><i>Note: The child becomes ineligible for Title IV-E beginning the month after the REFPP is due.</i></p> <p>The family situation is reviewed only to the extent that deprivation must continue to exist.</p>

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	Child must have resided in and have been removed from the home of a parent or other specified relative. 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.
Deprivation Refer to Attachment 2 to Chapter 5.	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. 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. 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. If the Department has permanent commitment (TPR) of the child, deprivation is met by law.
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	Family: Siblings and parents of the child living in the home must be included in the assistance group, if otherwise eligible. Child: Each child is separate filing unit (even if siblings reside in the same foster home).

<p>Child Support Enforcement (CSE)</p>	<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 CIC specialist 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> <p>CSE determines good cause.</p>
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<p style="text-align: center;">FINANCIAL</p>	
<p>FACTOR</p>	<p>Title IV-E</p>
<p>Asset Limit</p>	<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>
<p>Income</p>	<p>Family: All earned and non-earned income is counted unless specifically excluded or disregarded. Non recurring 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>
<p>Budgeting</p>	<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>

c. Actions to Take When Initial Eligibility or Ineligibility Is Established. Refer to the following chart to determine what actions are necessary when eligibility or ineligibility for Title IV-E benefits is determined.

<i>When the application is:</i>	<i>Then the ACCESS CIC specialist:</i>
<i>Denied</i>	Continues to process the case through the FLORIDA system, which is programmed to automatically assess the child's eligibility for Medicaid as a Non-Title IV-E child. Records all actions taken on the case in the running records comment screen (CLRC) on FLORIDA and fully explains the reason for IV-E denial.
<i>Approved</i>	Approves the assistance group Title IV-E Medicaid and sends the manual Notice of Case Action to the revenue maximization staff informing them of case disposition. NOTE: FLORIDA schedules the review at 12- month intervals

5-4. 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 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.

c. Actions to Take When Changes Occur in an Active Case.

WHEN the child	THEN the ACCESS CIC specialist:
is no longer Title IV-E eligible	Continues to process the case through FLORIDA and assess his/her eligibility for Medicaid as a non-Title IV-E child. Records all case actions on the running record comment screen (CLRC) and fully explain the reason for the IV-E cancellation.
Remains Title IV-E eligible after a change occurs	Authorizes the change on FLORIDA. Send a manual Notice of Case Action to the Revenue Maximization_unit, advising of the child's continued eligibility and the effective date. Records all case actions on the running record comment screen (CLRC) and fully explain the reason for the change.

5-5. 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 ACCESS CIC 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 ACCESS CIC specialist must determine based on information from Revenue Maximization 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.

5-6. Medicaid Eligibility for Title IV-E Children – General Policies and Procedures. 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.

a. Initial Eligibility Determination by ACCESS.

(1) The responsibility of Revenue Maximization staff include:

(a) Requesting an eligibility determination by submitting a completed Child in Care Medicaid Application (form CF-ES 2293), or a Child in Care Title IV-E and Medicaid Application (form CF-ES 2626A) to the ACCESS CIC unit.

(b) Routing the completed Child in Care Eligibility Review and Change Report (form CF-ES 2694) to the ACCESS CIC specialist indicating a change in the child's placement.

(c) Annotating any other information on the CIC form that has changed since the Child in Care Application was last completed (i.e., demographic data, date of birth, absent parent information, etc.) and route to ACCESS CIC staff.

(2) The responsibilities of ACCESS 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. The ACCESS 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. The ACCESS 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 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 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.

5-7. Medicaid Eligibility for Non-Title IV-E Children. If the child is ineligible for Title IV-E, then the child fails to meet eligibility requirements for the related Medicaid coverage (MCFE) on FLORIDA. However, the FLORIDA system automatically processes eligibility for the next possible Medicaid coverage group in the "hierarchy" which is Medicaid for a non- IV-E child. The FLORIDA code for this coverage group is MCFN.

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 CIC specialist 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 information on the absent parent(s) for use by Child Support Enforcement staff. The exception to this is when a child was conceived as a result of rape or incest, parental rights are terminated, parent is deceased, or the child's parent(s) receive Supplemental Security Income (SSI).

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 subaccount 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.

(2) Medicaid under MEDS (MMI or MMC). The child's income must not exceed the current poverty level for the applicable age group. There is no asset test in MEDS.

(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. Subsidized Independent Living is a program for older youth in foster care 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. Introduction to Title IV-E Adoption Assistance Eligibility.

a. Title IV-E adoption assistance is available to any special needs child who meets the eligibility requirements provided in section 473 of the Social Security Act (the Act). The Department/CBC agency will provide adoption assistance to every child it determines is eligible, unless the prospective adoptive parent(s) decline such assistance. Further, the Department/CBC agency is prohibited from imposing additional eligibility requirements not contained in federal law.

b. Determination of eligibility for adoption assistance and administration of the benefits are the responsibility of the Department/CBC agency, regardless of whether the child is committed to the Department or to a private child-placing agency for the purpose of adoption.

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

d. Maintenance adoption subsidy payments to the adopting parent(s) 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. Special needs 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. The eligibility requirements listed in paragraphs 6-2 or 6-3 of this chapter must be met in order to be eligible for Title IV-E adoption assistance.

f. Private agencies depend on the Department/CBC agency to determine eligibility and provide adoption assistance benefits to children who are relinquished to the custody of private agencies.

g. The Title IV-E maintenance adoption assistance checklists for Applicable Child and Not Applicable Child attached to this chapter must be used as worksheets for preliminary documentation screening purposes only.

h. The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P. L. 110-351) amends section 473 of the Social Security Act to remove Aid to Families with Dependent Children (AFDC) criteria from Title IV-E adoption assistance eligibility requirements. This law provides a nine-year transition period during which a child is treated as (1) "an Applicable Child" or (2) a "Not Applicable Child." Eligibility requirements for each of these pathways are discussed below. The date the adoption agreement is entered into is a critical event for determining which path to use for the child's eligibility.

6-2. Eligibility for the Applicable Child.

a. Applicable Child. The Department/CBC agency must determine that the child meets the definition of Applicable Child on the date that the adoption agreement is entered into. An Applicable Child is a child who:

(1) Meets the applicable age for the federal fiscal year (see Table 6-1 below), or,

(2) Has been in foster care for at least 60 consecutive months, or,

(3) Is a sibling to an eligible Applicable Child if both are to have the same adoption placement.

Table 6-1: Applicable Age by Federal Fiscal Year

Federal Fiscal Year	The applicable age is:	Federal Fiscal Year	The applicable age is:
10/01/ 2009 – 09/30/2010	16	10/01/ 2010 – 09/30/2011	14
10/01/ 2011 – 09/30/2012	12	10/01/ 2012 – 09/30/2013	10
10/01/ 2013 – 09/30/2014	8	10/01/ 2014 – 09/30/2015	6
10/01/ 2015 – 09/30/2016	4	10/01/ 2016 – 09/30/2017	2
10/01/ 2017 – 09/30/2018 or thereafter	any age.		

NOTE: The Applicable Child eligibility requirements must be applied if the child has attained the applicable age any time before the end of the federal fiscal year during which the adoption assistance agreement is entered into. The applicable age for a child begins at 16 years old in Federal Fiscal Year (FFY) 2009-2010. Each fiscal year the age decreases by two years until a child of any age meets the applicable age requirements in FFY 2017-2018. Beginning October 1, 2017, the Applicable Child eligibility criteria will apply to children of all ages.

b. Special Needs for Applicable Child. The Department/CBC agency must determine that the Applicable Child meets the following three-part definition of Special Needs: To be determined “special needs,” the Applicable Child must meet the requirements of ALL THREE PARTS of the definition.

(1) Part 1 of Special Needs Definition for Applicable Child. The child cannot or should not be returned to the home of his parents. This determination can be based on evidence by:

- (a) An order from a court of competent jurisdiction that terminates parental rights; or
- (b) The existence of a petition to the court for a termination of parental rights (TPR); or
- (c) A signed relinquishment by the parent(s); or
- (d) If a child can be adopted in accordance with Tribal law without a TPR or relinquishment, the requirement will be met.

(2) Part 2 of Special Needs Definition for Applicable Child. There is a specific factor or condition which makes it reasonable to conclude that the child cannot be placed with adoptive parent(s) without providing adoption assistance under Title IV-E and medical assistance under title XIX. The specific factors or conditions include a child who meets the requirements of (a) OR (b) below:

- (a) The child meets all of the medical or disability requirements for Supplemental Security Income (SSI). If a child meets all the medical or disability requirements for SSI, the criteria for the factor or condition of the special needs determination will be met;

(b) If a child does not meet all the medical or disability requirements for SSI, the criteria for the factor or condition of the special needs determination will be met if the child meets one the following requirements:

1. Is eight years of age or older; or,
2. Is developmentally delayed; or,
3. Has a physical, mental or emotional disability; or,
4. Is of black or racially mixed parentage (at least one parent is black); or,
5. Is a member of a sibling group of any age, provided two or more members are placed together for adoption;

(3) Part 3 of Special Needs Definition for Applicable Child. A reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption or Medicaid assistance. The only exception to this requirement is where it would be against the best interests of the child because of the existence of significant emotional ties with prospective adoptive parents while in the care of the parents as a foster child. This exception also extends to other circumstances that are not in the child's best interests, including adoption by a relative in keeping with the statutory emphasis on the placement of children with relatives.

c. Eligibility Path for Applicable Child. The Department/CBC agency must determine that an Applicable Child with special needs **MEETS ONE** of the four eligibility requirements described in paragraphs (1), (2), (3), or (4) below at the time of the initiation of adoption proceedings:

(1) The Applicable Child was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to a judicial removal or a voluntary placement agreement. The Department/CBC agency must determine that the Applicable Child was in the care of a public or licensed private child placement agency or Indian tribal organization pursuant to:

(a) An involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home; or,

(b) A voluntary placement agreement or voluntary relinquishment. For an Applicable Child who is in placement due to a voluntary placement agreement, a Title IV-E foster care payment does not have to be made.

(2) The Applicable Child meets all medical and disability requirements of SSI. The Department/CBC agency must determine if the Applicable Child meets all medical and disability requirements of Title XVI with respect to eligibility for SSI benefits. An Applicable Child does not have to meet the needs-based requirements for SSI.

(3) The Applicable Child is a child of a minor parent. The Department/CBC agency must determine whether the minor parent's child was residing in a foster family home or child care institution with his/her minor parent and the minor parent was removed from home pursuant to either:

(a) An involuntary removal in accordance with a judicial determination to the effect that it was contrary to the child's welfare to remain in the home; or,

(b) A voluntary placement agreement; or,

(c) A voluntary relinquishment.

(4) The Applicable Child was eligible in prior adoption. The Department/CBC agency must determine if the Applicable Child was previously adopted and was eligible for Title IV-E adoption assistance in a prior adoption (or would have been found eligible had the Adoption and Safe Families Act of 1997 been in effect at the time of the previous adoption), and is available for adoption because the prior adoption has been dissolved or the child's adoptive parents have died. In such an instance, the child may retain eligibility for adoption assistance payments in a subsequent adoption. The Department/CBC agency only needs to determine that the child is still a child with special needs for the child to be eligible for adoption assistance.

d. Additional Requirements for Applicable Child. All other eligibility requirements in paragraphs 6-4 through 6-18 of this operating procedure apply to the Applicable Child. These include the citizenship, abuse registry and criminal background checks, adoption assistance agreement, nonrecurring expenses of adoption, fair hearings, and medical insurance requirements.

6-3. Eligibility for the Not Applicable Child.

a. Not Applicable Child. The Department/CBC agency must determine that the child meets the definition of Not Applicable Child on the date that the adoption agreement is entered into.

(1) A Not Applicable Child is a child who:

- (a) Does not meet the age requirements for the fiscal year, or,
- (b) Has not been in care for 60 consecutive months, or,
- (c) Is not being adopted with a sibling who is an Applicable Child.

(2) For a Not Applicable Child, the Department/CBC agency must use the Title IV-E adoption assistance eligibility requirements in place prior to October 1, 2009.

b. Special Needs for Not Applicable Child. The Department/CBC agency must determine that the Not Applicable Child meets the following three-part definition of special needs prior to the finalization of the adoption. ALL THREE PARTS of the special needs provision in (1), (2) and (3) below must be met in order for a child to be considered a child with special needs. The only exception is when the adoptive parent(s) have obtained favorable fair hearing decisions. A favorable fair hearing decision may allow the Department/CBC agency to determine after the finalization of the adoption that a child met the special needs criteria prior to finalization. The three parts of the special needs definition for the Not Applicable Child are as follows:

(1) Part 1 of Special Needs Definition for Not Applicable Child. The Department/CBC agency must determine that the child cannot or should not be returned to the home of his or her parent(s). This determination can be based on evidence by

- (a) An order from a court of competent jurisdiction that terminates parental rights; or,
- (b) The existence of a petition to the court for a termination of parental rights; or,
- (c) A signed relinquishment by the parent(s).

NOTE: If a child can be adopted in accordance with Tribal law without a TPR or relinquishment, the requirement will be met.

(2) Part 2 of Special Needs Definition for Not Applicable Child. The Department/CBC agency must determine that there exists a specific factor or condition which makes it reasonable to conclude that the Not Applicable Child cannot be adopted without providing Title IV-E adoption assistance or title XIX medical assistance. The specific factors or conditions include a child who meets one of the following criteria:

- (a) Is eight years of age or older; or,
- (b) Is developmentally delayed; or,
- (c) Has a physical, mental or emotional disability; or,
- (d) Is of black or racially mixed parentage (at least one parent is black); or,
- (e) Is a member of a sibling group of any age provided that two or more members of the group remain together for purposes of adoption.

NOTE: The specific factor(s) that make the child difficult to place must be documented in the child's case file.

(3) Part 3 of Special Needs Definition for Not Applicable Child. The Department/CBC agency must make a reasonable, but unsuccessful, effort to place the child for adoption with appropriate adoptive parent(s) without providing adoption assistance.

- (a) The only exception to this requirement is situations where it would not be in the child's best interests due to such factors as the existence of significant emotional ties with the prospective adoptive parent(s) while in their care as a foster child.
- (b) This exception also extends to other circumstances that are not in the child's best interests, including adoption by a relative in keeping with the statutory emphasis on the placement of children with relatives.
- (c) The Department/CBC agency can meet the "reasonable effort to place the child without the provision of adoption assistance" requirement by using adoption exchanges, making referrals to appropriate specialized adoption agencies, or other similar activities.
- (d) The Department/CBC agency must document in each child's case record the specific factor(s) that make the child difficult to place and describe the efforts to place the child for adoption without providing assistance.
- (e) The Department/CBC agency will not shop around for a family who will adopt without assistance while a child remains in foster care. Rather, once the agency has determined that placement with a certain family is in the child's best interests, the agency should make full disclosure about the child's background, as well as known or potential problems.
- (f) If the Department/CBC agency has determined that the child cannot or should not return home and the child meets the statutory definition of special needs with respect to specific factors or conditions, the Department/CBC agency can pose the question of whether the prospective adoptive parents are willing to adopt without the provision of adoption assistance. If they say they cannot adopt the child without adoption assistance, the requirement for a reasonable, but unsuccessful, effort to place the child without providing adoption assistance will be met.

c. Eligibility Path for Not Applicable Child. The Department/CBC agency must also determine that a Not Applicable Child with special needs **MEETS ONE** of the four eligibility requirements

described in paragraphs (1), (2) (3) or (4) below at the initiation of adoption proceedings, but no later than prior to the finalization of adoption:

(1) The Not Applicable Child is eligible for Supplemental Security Income (SSI) benefits.

(a) If a child is being determined eligible for Title IV-E adoption assistance through the SSI pathway, the child must be determined eligible for SSI by the Social Security Administration prior to the finalization of the adoption. Only a designated Social Security Administration claims representative can determine a child's SSI eligibility and provide the appropriate eligibility documentation to the Department/CBC agency for the child's file.

(b) If the SSA final notice of eligibility is received after the finalization, but determines that the child's SSI eligibility began prior to finalization, that is acceptable. However, in all cases, a Title IV-E adoption assistance agreement must be in place prior to the finalization of the adoption unless a fair hearing decision after finalization is favorable to the adoptive family.

(c) Additional eligibility criteria that are not in federal statute must not be applied.

(2) The Not Applicable Child is a child of a minor parent who received at least one Title IV-E maintenance payment while in foster care.

(a) A child is eligible for Title IV-E adoption assistance through this pathway if the minor parent's Title IV-E foster care maintenance payment also covered the child's cost of care while the child was with the minor parent in foster care.

(b) Additional eligibility criteria that are not in federal statute must not be applied.

(3) The Not Applicable Child was eligible for Title IV-E adoption assistance in a previous adoption.

(a) The Not Applicable Child will continue to be eligible for Title IV-E adoption assistance in a subsequent adoption if he or she was eligible for Title IV-E adoption assistance in a previous adoption and the adoptive parent(s) died, or the adoption dissolved as a result of a termination of parental rights.

(b) Continued Title IV-E adoption assistance eligibility and payments are not authorized for a child placed with an individual who is not adopting the child, or in situations where the child is placed with a legal guardian.

(c) The Department/CBC agency must not "transfer" the child's payment to anyone after the adoptive parent(s) die or the adoption is dissolved.

(d) The Department/CBC agency must determine that the child continues to be a child with special needs and enter into a new Title IV-E adoption assistance agreement with the subsequent adoptive parent(s).

(e) Both the determination of special needs and a signed Title IV-E adoption assistance agreement must be completed prior to the finalization of the subsequent adoption.

(f) Additional eligibility criteria that are not in federal statute may not be applied to the child.

(4) The Not Applicable Child was eligible for Aid to Families with Dependent Children (AFDC) at the time of the most recent removal.

(a) The Department/CBC agency must determine that in accordance with Florida's Title IV-A plan as in effect on July 16, 1996, the child would have been eligible for AFDC in the specified relative's home from which he or she is removed in the month of, but prior to, the Voluntary Placement Agreement (VPA) or initiation of court proceedings (petition) to remove the child from his or her home.

(b) For the purpose of Title IV-E adoption assistance eligibility, a specified relative is defined as any relation by blood, marriage or adoption that is within the fifth degree of kinship to the dependent child. This includes great-great-grandparents and first cousins once removed (i.e., children of first cousins).

(c) If there is no petition in a court-ordered removal, then AFDC eligibility is determined in the month of, but prior to, the date of the child's removal in physical removals or the date of the removal order in constructive removals.

(d) A constructive removal is a legal or paper removal of a child who is not living with the specified relative from whom s/he is being removed at the time of removal.

(e) For children who were adopted on or after October 1, 2005, the Department/CBC agency must determine AFDC eligibility only at the time of the child's removal from the home.

(f) For children who were adopted prior to October 1, 2005, the Department/CBC agency must determine that the child continued to be eligible for AFDC at the time of the initiation of adoption proceedings.

(g) If a Not Applicable Child was removed from his/her home pursuant to a Voluntary Placement Agreement (VPA), there must have been at least one Title IV-E foster care maintenance payment made on behalf of the child under the VPA in order for the child to be eligible for Title IV-E adoption assistance. Therefore, in this situation – and only in this situation – the child must have been under the responsibility for placement and care of the Department/CBC agency, or another public agency with which the Department has a Title IV-E Interagency Agreement. The Department has a Title IV-E Interagency Agreement with the Florida Department of Juvenile Justice (DJJ). The Title IV-E Interagency Agreement allows the other public agency to receive foster care maintenance payment reimbursements.

(h) For the purpose of Title IV-E adoption assistance eligibility, there is no specified amount of time that a child must have been in foster care under a VPA and no requirement for a judicial determination within 180 days of placement to the effect that the placement is in the child's best interest.

(i) If a child's removal from his/her home is court-ordered, the removal must be the result of a judicial determination in the first court order removing the child from the home to the effect that to remain in the home would be contrary to the child's welfare.

(j) For children removed from their homes before January 23, 2001, the contrary to the welfare determination is allowed in any court order up to the time of the initiation of adoption proceedings.

(k) For children removed on or after January 23, 2001, the judicial determination must be made in the first court order that sanctions the child's removal from the home.

(l) The Not Applicable Child does not have to be under the responsibility for placement and care of the Department/CBC agency or receive a Title IV-E foster care maintenance payment in court-ordered removals.

(m) Although a condition of eligibility is that the Not Applicable Child must be removed from his/her home pursuant to a voluntary placement agreement or a judicial determination that to remain in the home would be contrary to the child's welfare, a child who is relinquished to a public or a private, non-profit agency, or placed with a private, non-profit agency under a voluntary placement agreement can be considered judicially removed under the following circumstances:

1. The Not Applicable Child is voluntarily relinquished either to the Department/CBC agency (or another public agency with which the Department has a Title IV-E Interagency Agreement), or voluntarily placed with a private, non-profit agency; and
2. There is a petition to the court to remove the child from his/her home within six months of the time the child lived with the specified relative from whom s/he was relinquished or voluntarily placed from; and
3. There is a subsequent judicial determination to the effect that remaining in the home would be contrary to the child's welfare.

d. Additional Requirements for Not Applicable Child. All other eligibility requirements in paragraphs 6-4 through 6-18 of this operating procedure apply to the Not Applicable Child. These include the citizenship, abuse registry and criminal background checks, adoption assistance agreement, nonrecurring expenses of adoption, fair hearings, and medical insurance requirements.

6-4. Additional Eligibility Requirements for the Applicable and Not Applicable Child.

a. Citizenship and Immigration Status. The Department/CBC agency must also verify that the Applicable or Not Applicable child with special needs meets required citizenship or immigration status.

(1) In order to receive Title IV-E maintenance adoption assistance, the Applicable or Not Applicable Child must be a United States citizen or a qualified non-citizen. The definition of qualified non-citizens includes but is not limited to, permanent residents, asylees, and refugees (see U.S. Citizenship and Immigration Service website at www.uscis.gov/portal/site/uscis for more details).

(2) Children who are illegal non-citizens or undocumented immigrants are not eligible for adoption assistance.

(3) In addition, section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) requires a qualified non-citizens entering the United States on or after August 22, 1996, to live in the United States for five years before becoming eligible for certain federal public benefits.

(4) However, federal payments for adoption assistance are excluded from this five-year residency requirement if the child and the adoptive parent(s) with whom s/he is placed are qualified non-citizens. Accordingly, if an adoptive parent is not a qualified non-citizen, a child who is otherwise eligible must meet the five-year residency requirement to receive Title IV-E adoption assistance.

(5) Special needs children who are not U.S. citizens or qualified non-citizens and were either adopted in another country or brought to the U.S. for adoption are ineligible for Title IV-E adoption assistance, except when the child meets the eligibility criteria after the disruption or dissolution of the international adoption.

b. Abuse Registry and Criminal Background Checks. The Department/CBC agency must determine that prospective adoptive parent(s) of the child meet background checks requirements.

(1) The Department/CBC agency must conduct background checks of prospective adoptive parent(s).

(2) The Department/CBC agency must secure a fingerprint-based check of the National Criminal Information Database (NCID) in addition to state and local criminal history records checks for prospective adoptive parent(s).

(3) The Department/CBC agency must also conduct a check of the state-maintained child abuse and neglect registries in all states in which the prospective adoptive parent(s) and all other adults living in the adoptive home have resided in the last five years

(4) The Department/CBC agency will not claim federal financial participation for Title IV-E adoption assistance if the criminal records check reveals that a prospective adoptive parent has a felony conviction for child abuse or neglect; spousal abuse; a crime against children (including child pornography); or for a crime involving violence (including rape, sexual assault, or homicide, but not including other assault and battery). (see s.39.0138(2), F.S.)

(5) The Department/CBC agency will not claim federal financial participation for Title IV-E adoption assistance if the prospective adoptive parent has been convicted of the following felonies within the past five years: physical assault; battery; or a drug-related offense.

c. Fully Executed Adoption Assistance Agreement. The Department/CBC agency must enter into an adoption assistance agreement with the prospective adoptive parent(s) and begin paying Title IV-E adoption assistance on behalf of a Title IV-E eligible child at the time of placement, but no later than prior to the finalization of the adoption. (see s.39.0138(3), F.S.)

(1) The only exception is when the adoptive parent(s) have obtained favorable fair hearing decisions after finalization. A favorable fair hearing decision may allow the Department/CBC agency to determine after the finalization of the adoption that a child met all the eligibility criteria prior to finalization.

(2) Required elements of the adoption assistance agreement include, but are not limited to (for further discussion see paragraph 6-6 of this chapter):

(a) The duration of the agreement;

(b) The nature and amount of any payment, service and assistance to be provided;

(c) The child is eligible for Title XIX Medicaid;

(d) The agreement shall remain in effect regardless of the State in which the adoptive parent(s) reside;

(e) The interests of the child shall be protected when the adoptive parent(s) and child move to another State; and,

(f) The agreement must be signed by the adoptive parent(s) and a Department/CBC agency representative, and a signed copy given to each party.

(g) The Department/CBC agency will not terminate or otherwise suspend the adoption assistance without the concurrence of the adoptive parent(s) for reasons other than those provided by federal law or regulation.

d. Age. Title IV-E adoption assistance payments and benefits for an Applicable Child and Not Applicable Child cease in the month of the child's 18th birthday or at the time the adoptive parents are no longer supporting the child or no longer have financial and/or legal responsibility for the child. Termination of adoption assistance before a child's 18th birthday must be discussed with the adoptive parent(s). Further, adoptive parent(s) must be given the right to appeal any decision to terminate the assistance. See paragraph 6-14, Making a Decision to Terminate or Continue Title IV-E Adoption Assistance.

6-5. 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 his or her 18th 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, form CF-ES 2626A (available in DCF Forms) must be completed and forwarded to CIC for an initial IV-E foster care determination (see Chapter 5 of this operating procedure).

c. If the child is determined eligible based on meeting SSI criteria, all appropriate requirements must be met and documented no later than prior to finalization. Revenue maximization staff, adoption case managers and CIC specialists are advised that the documentation of eligibility will differ depending on whether the child is an Applicable Child or a Not Applicable Child. (See paragraphs 6-2 and 6-3 of this operating procedure for appropriate documentation.)

d. If the child is determined eligible due to being a special needs child who was previously adopted and received IV-E adoption assistance, the 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 prior to finalization. Documentation includes, but is not limited to, prior CIC Notice of Case Action, signed adoption assistance agreement indicating IV-E eligibility, or payment history printout indicating payment of IV-E adoption assistance. Revenue maximization staff, adoption case managers and CIC specialists are advised that the documentation of eligibility will differ depending on whether the child is an Applicable Child or a Not Applicable Child. (See paragraphs 6-2 and 6-3 of this operating procedure for appropriate documentation.)

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. Revenue maximization staff, adoption case managers and CIC specialists are advised that the documentation of eligibility will differ depending on whether the child is an Applicable Child or a Not Applicable Child. (See paragraphs 6-2 and 6-3 of this operating procedure for appropriate documentation.)

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 ACCESS FLORIDA Child in Care specialist. The child's IV-E foster care eligibility status must be documented at the time of the latest removal. Revenue

maximization staff, adoption case managers and CIC specialists are advised that the documentation of eligibility will differ depending on whether the child is an Applicable Child or a Not Applicable Child. (See paragraphs 6-2 and 6-3 of this operating procedure for appropriate documentation.)

(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 foster care eligibility has not been made for the child (such as a child who has not been in licensed foster care, IV-E foster care waiver, etc.), a Child in Care Title IV-E and Medicaid Application (form CF-ES 2626A, available in DCF Forms) must be completed based on the removal home situation and submitted to the ACCESS FLORIDA CIC specialist.

(3) The ACCESS FLORIDA CIC specialist will make an eligibility determination based on the information provided, document the finding, and send a manual Notice of Case Action to the assigned Revenue Maximization staff. The Notice of Case Action must be filed in the child's case record and be available for audit purposes.

g. If, after the initial screening, the child appears to be ineligible for Title IV-E adoption assistance, a Child in Care Title IV-E and Medicaid Application must be completed based on the removal home situation and submitted to the ACCESS FLORIDA CIC specialist to confirm the child's ineligibility. The ACCESS FLORIDA CIC specialist must submit a Notice of Case Action to the Revenue Maximization staff or designee responsible for the case as documentation of the child's ineligibility for Title IV-E adoption assistance. The child's Maintenance Adoption Subsidy (MAS) may be funded from other available funding sources, as appropriate.

h. 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 Checklists for Applicable Child and Not Applicable Child (attachments 1 and 2 to this chapter) have been developed as job aids to assist with documentation required to determine eligibility for Title IV-E adoption assistance.

6-6. The Adoption Assistance Agreement. 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 a fully executed adoption assistance agreement.

b. The initial and all subsequent adoption assistance agreements must be signed and dated by the prospective adoptive parent(s) and a Department employee or designee. The initial agreement may be fully executed 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: The Department/CBC agency shall not make Title IV-E adoption assistance payments on behalf of a child 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 adoptive 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.

(2) The amount of the subsidy may be adjusted to the maximum allowable payment for the child based on his or her changing needs and the circumstances of the adoptive parent(s). The Department/CBC agency must obtain the concurrence of the adoptive parent(s) if it wishes to make any changes in the payment amount with one exception. That exception is when there is an across-the-board statewide reduction or increase in the foster care maintenance payment rate. In that circumstance, the state may adjust the adoption assistance payment without the adoptive parent's concurrence. All other adjustments must be done with the concurrence 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 documented. 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 to not accept adoption assistance and declines to sign the agreement with \$0 subsidy documented, all discussions regarding adoption assistance with the family must be fully documented in the child's file. Adoption case managers must request that the adoptive parent(s) 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 assistance, and other services to be provided especially the 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.

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 adoptive parent(s) are no longer legally responsible for support of the child; or (3) it is determined that the child is no longer receiving support from the parent(s).

f. Once executed, the Adoption Assistance Agreement remains in effect regardless of the state in which the adoptive parents reside. The Department will be responsible for the maintenance adoption subsidy and medical subsidy as agreed to in the agreement, regardless of the family's state of residence.

g. If the family moves to another state and the child is Title IV-E eligible, the other state is responsible for the provision of adoption assistance Medicaid. If the child is Title IV-E ineligible, the adoption unit which placed the child will assist family in securing Medicaid benefits in the new state of residence.

h. If the family moves to another state and a needed service specified in the agreement is not available in the new state, the state of Florida, as the state that entered into the initial agreement with the adoptive parents, remains financially responsible for payment of the service.

6-7. Non-Recurring Adoption Expenses.

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

b. "Other expenses" are the costs of the adoption incurred by or on behalf of the parent(s) and for which the parent(s) carry the ultimate liability for payment. Such costs may include, but are not limited to, expenses for adoption home study, health and psychological examinations, supervision of the placement prior to the adoption, and reasonable costs of transportation, lodging, and food when necessary to complete the placement or the adoption process.

c. A child does not have to meet the Title IV-E adoption assistance eligibility requirements in order for the adoptive parent(s) to be reimbursed for their nonrecurring adoption expenses, nor under the responsibility of the Department/CBC agency for care and placement. 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. There shall be no income eligibility requirement for adoptive parents in determining whether payments for non-recurring expenses will be made.

d. When the adoption involves an interstate placement, the state entering into the adoption assistance agreement with the prospective adoptive parent(s) is responsible for paying the nonrecurring adoption expenses. If no federal or state adoption assistance agreement exists, the state in which the final adoption decree is issued is responsible for reimbursing the nonrecurring adoption expenses if the child is determined to be a child with special needs.

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

f. Although the adoption assistance agreement must be signed and in effect prior to the finalization of the adoption, Federal Financial Participation is available for claims for reimbursement that are made for up to two years from the date of the finalization of the adoption.

g. In order for the Department/CBC agency to pay non-recurring adoption expenses, the following criteria must be met:

(1) The child must meet the three part special needs requirements.

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

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

(4) 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.

(5) The adoptive parents must provide the Department or lead agency with receipts or 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.

(6) Payments for non-recurring expenses may be made up to two years following finalization. However, every effort must be made to submit the required receipts for reimbursement within three months after the adoption finalization. These funds are intended for activities that occur prior to adoption finalization and are not meant for post-adoption supports, regardless of when the payments are made.

6-8. Reasonable Efforts to Place a Child Without Providing Adoption Assistance.

a. The Department/CBC agency must make a reasonable effort to place a child for adoption without adoption assistance. However, a child must not remain unnecessarily in foster care while the Department/CBC 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 shall be the overriding factor when a 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) Documentation of the child in the adoption section of the Florida Safe Families Network (FSFN), the statewide SACWIS system. 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 FSFN. If no such family is found in FSFN, the results of the search must be documented in the child's subsidy case record.

(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 2-4, chapter 2 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 these efforts is when the child is to be adopted by his or 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.

6-9. Fair Hearings for Denials of Title IV-E Adoption Assistance.

a. The Department/CBC agency must provide an opportunity for a fair hearing to any individual whose claim for assistance is denied or not acted upon with reasonable promptness.

b. The fair hearing process must be conducted by an impartial official(s) or designee of the Department. The hearing official or designee cannot have been directly involved in the initial or previous determination of the action in question. A fair hearing opportunity applies to a denial, suspension, reduction, discontinuance, or termination of assistance.

c. Some allegations that constitute grounds for a fair hearing under the Title IV-E adoption assistance program include, but are not limited to:

(1) Relevant facts regarding the child were known by the Department/CBC agency or child-placing agency and not presented to the adoptive parent(s) prior to the finalization of the adoption;

(2) Denial of assistance based upon a means test of the adoptive parent(s);

- (3) Adoptive parent(s) disagree with the determination by the Department/CBC agency that a child is ineligible for Title IV-E adoption assistance;
- (4) Failure by the Department/CBC agency to advise potential adoptive parent(s) about the availability of adoption assistance for children in the state foster care system;
- (5) Decrease in the amount of adoption assistance without the concurrence of the adoptive parent(s);
- (6) Denial of a request for a change in payment amount due to a change in the adoptive parent(s) circumstances or increased needs of the child; and,
- (7) Failure of the Department/CBC agency to complete the required paperwork prior to the finalization of the adoption.

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

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

f. 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.

g. 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.

h. There are times when the Department/CBC 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.

i. In situations where the final fair hearing decision is favorable to the adoptive parent(s), the Department/CBC agency can reverse the earlier decision to deny benefits under Title IV-E. If the child meets all the eligibility criteria, the Department/CBC agency may enter into a Title IV-E adoption

assistance agreement with the adoptive parent(s) beginning with the earliest date of the child's eligibility (e.g., the date of the child's placement in the adoptive home, the date of the request or the date of finalization of the adoption) in accordance with federal and state statutes, regulations and policies.

6-10. Disallowance of Title IV-E Adoption Assistance for Children Who Are Adopted by Biological Parents Whose Parental Rights Have Been Terminated.

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 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.

6-11. Concurrent Payments of Title IV-E Adoption Assistance and Supplemental Security Income (SSI).

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, and prior to the adoption finalization, the Department/CBC 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.

Table 6-2: Example of SSI Benefits Deduction for a Title IV-E Eligible Child

Amount	Program	Department/CBC Action
\$545.00	SSI	Receive
<u>-\$417.00</u>	IV-E adoption assistance payment	Deduct
\$128.00	SSI	Benefit for the child

(4) At finalization of the adoption, the subsidy payments will be changed to Title IV-E, expenditure type code “400” in ICWSIS and “IV-E” in FSFN.

(5) At 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 adoption assistance agreement must also be in place for the reimbursement of non-recurring adoption expenses.

6-12. Adoption Assistance Medicaid Coverage for Title IV-E Eligible Children.

- a. Any child who is eligible for Title IV-E adoption assistance under a Title IV-E adoption assistance agreement is categorically eligible to receive title XIX Medicaid in his/her state of residence consistent with the terms of the state’s Title XIX plan.
 - b. A child that has been determined eligible for Title IV-E adoption assistance is also eligible for adoption assistance 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.
 - c. 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. The ACCESS FLORIDA CIC specialist will complete the annual Medicaid eligibility review and forward a Notice of Case Action to be filed in the child’s case record.
- NOTE: If the Adoption Assistance Agreement is terminated prior to the child’s 18th birthday, the ACCESS FLORIDA CIC specialist must be notified.
- d. Title IV-E and Medicaid allows the child to receive adoption assistance Medicaid coverage anywhere in the United States. 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.
 - e. 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 the appropriate documentation and process as instructed by the Office of Family Safety headquarters specialist.
 - f. If a child is not Title IV-E eligible and moves to another state, the parents, with the assistance of the Department/CBC 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, and 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.

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

6-13. Disruption/Dissolution of Placement in the Adoptive Parents' Home. 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, and therefore 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 specialist must be notified of the child's placement status and of any other changes in the child's circumstances. If the child continues to be Title IV-E reimbursable, foster care expenditures will be coded Title IV-E. If the child was 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, 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 in the subsequent adoption placement is whether the child is a child with special needs.

6-14. Making a Decision to Terminate or Continue Title IV-E Adoption Assistance.

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; or,

(3) That the child has turned age 18. The payment continues through the month of the child's 18th birthday, unless the child's date of birth is the first day of the month.

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. There is nothing to prevent the Department/CBC agency from requesting or the court for ordering the adoptive parent(s) to contribute toward the cost of the child's care in the same manner as any other parent(s) 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?

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

e. If the adoptive parent(s) designated a guardian or another relative to care for the child in the event of the parent(s)' death and the guardian or relative adopts the child, the procedures for determining eligibility under Title IV-E must be followed.

6-15. Private Agency Participation in Title IV-E Adoption Assistance, Medicaid, and Non-Recurring Adoption Expenses.

a. Special needs 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 sections 6-2 or 6-3 and 6-4 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. The Adoption and Safe Families Act (ASFA) prohibits delays or denials of adoptive placements across county, 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.

a. For an Applicable Child. The Social Security Act, as amended, prohibits payment of adoption assistance and of non-recurring expenses on behalf of an Applicable Child who is not a citizen of the United States or a qualified non-citizen and was either adopted outside the U.S. or brought to the U.S. for the purpose of being adopted.

b. For a Not Applicable Child. The Federal adoption assistance program under Title IV, part E of the Social Security Act, was intended to provide permanency for children with special needs in public foster care by assisting states in providing ongoing financial and medical assistance to the families who adopt them. As a result, the statutory requirements for Title IV-E adoption assistance eligibility are designed for needy children in public child welfare systems and are difficult, if not impossible, to apply to children who are adopted from abroad. Therefore, although the statute does not categorically exclude these children from participation in the Title IV-E adoption assistance program, it is highly improbable that children who are adopted abroad by U.S. citizens, or are brought into the U.S. from another country for the purpose of adoption, will meet the Title IV-E adoption assistance eligibility requirements provided in Title IV, part E of the Social Security Act.

(1) Although it is highly improbable that a Not Applicable Child adopted through an international adoption will meet the Title IV-E adoption assistance requirements, the Department/CBC agency shall not categorically exclude him or her from consideration. The Social Security Act does not authorize such exclusion.

(2) The Department/CBC agency will reimburse the nonrecurring expenses of adoption on behalf of a Not Applicable Child adopted through international adoption if it is determined that the child meets the three-part eligibility criteria for special needs provided in federal statute and regulations (see paragraph 6-3c of this chapter). Accordingly, the Department/CBC agency and the adoptive parent(s) must enter into an adoption assistance agreement prior to the finalization of the adoption.

Title IV-E Maintenance Adoption Assistance Checklist for Applicable Child

All relevant documents listed below must be in the child's subsidy record.

1. Legal

- 1.1 Involuntary Removal:**
- 1.1.1 Shelter petition. Date: _____
- 1.1.2 Removal/shelter order. Date: _____
- 1.2 Voluntary Removal**
- 1.2.1. Voluntary Placement Agreement (VPA). Date: _____
- 1.3. Voluntary Surrenders**
- 1.3.1. Petition for contrary to the child's welfare. Date: _____
- 1.3.2. Subsequent court order with contrary to the child's welfare judicial determination. Date: _____
- 1.4. Termination of Parental Rights (TPR)**
- 1.4.1. TPR petition. Date: _____
- 1.4.2. TPR order on all parents. Date: _____
- 1.5. Adoption finalization**
- 1.5.1. Petition for adoption finalization. Date: _____
- 1.5.2. Final judgment of adoption order (for finalized adoptions). Date: _____

2. Applicable Child

- 2.1 Age.
- 2.2 60 consecutive months in foster care.
- 2.3 Sibling of an Applicable Child placed together for adoption.

3. Special Needs Factors

- 3.1 Medical or disability requirements for SSI.
- 3.2 Child cannot return home (may be same as 1.4.2. TPR order).
- 3.3 Hard to place condition or factor (see Child Study).
- 3.4 Reasonable effort to place without subsidy.

4. Eligibility Path

- 4.1. SSI-Related Documentation (if eligibility based on receipt of SSI by child)**
- 4.1.1. Medical or disability requirements for SSI .
- 4.2. Prior Title IV-E Adoption Assistance Eligibility**
- 4.2.1. Documentation of child's previous eligibility for IV-E Adoption Assistance.
- 4.2.2. Child continues to be a child with special needs (same as 3. Special Needs Factors).
- 4.3. Child of a minor parent who was in foster care with the parent**
- 4.3.1. Parent's involuntary removal court order with a contrary to the child's welfare judicial determination. Date: _____
- 4.3.2. Parent's voluntary placement agreement. Date: _____
- 4.3.3. Parent's voluntary relinquishment (includes subsequent court order with contrary to the child's welfare judicial determination).
- 4.4. Child in the care of a public agency, licensed private agency or Indian Tribal Organization.**
- 4.4.1. Child's involuntary removal court order with a contrary to the child's welfare judicial determination (same as 1.1.2. above).
- 4.4.2. Child's voluntary placement agreement (same as 1.2.1. above).
- 4.4.3. Child's voluntary relinquishment (includes subsequent court order with contrary to the child's welfare judicial determination).

5. Citizenship

- 5.1. Documentation of citizenship or qualified non-citizen (Birth Certificate, Declaration of Citizenship, immigration visas, etc.).

6. Backgrounds Checks

- 6.1. National/federal criminal background checks clearance and date completed: _____
- 6.2. State criminal background checks clearance and date completed: _____
- 6.3. Local criminal background checks clearance and date completed: _____
- 6.4. Florida Abuse Hotline abuse and neglect checks clearance and date completed: _____
- 6.5. Adam Walsh Abuse Registry checks from other states for household members who have lived in another state during the previous five years on or after 10-1-2006 – and date completed: _____

7. Adoption Assistance Agreement

- 7.1. CF-FSP 5079 **Initial and Subsequent Adoption Assistance Agreements** - (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, as appropriate).
- 7.2. Amount of adoption assistance does not exceed actual foster care board rate including supplemental such as medical without documented approval by the Secretary of the Department.

8. Non-recurring Expenses

- 8.1. Completed Adoption Subsidy Title IV-E Eligibility/Screening Worksheet.
- 8.2. Notice of Case Action indicating that the child is eligible or ineligible for Title IV-E maintenance adoption assistance.

Title IV-E Maintenance Adoption Assistance Checklist for Not Applicable Child

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 supplemental(s) 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, immigration visas, 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 (Results and Date results received: _____)
- State (Results and Date results received: _____)
- Local (Results and Date results received: _____)
- Florida Abuse Registry checks for all adoptive placements (Results and Date results 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 (Results and Date results 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 adoption petition finalization)

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

- Child continues to be a child with special needs
- 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 (completed FS- ES 2626A form and supporting documentation)
- Notice of Case Action from Child in Care stating AFDC/IV-E eligible at the time of the most recent removal (Date of Removal: _____)

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: _____)

Voluntary Surrenders

- 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.