

CF OPERATING PROCEDURE
NO. 175-71

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, May 15, 2015

Family Safety

FEDERAL AND STATE FUNDING ELIGIBILITY

This operating procedure describes the major funding sources used by the Department of Children and Families (herein referenced as DCF or Department) and Community-Based Care (CBC) lead agencies to support child protection activities and services. The operating procedure provides policy and procedures for determining eligibility, reporting and claiming funds. It also 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)

JANICE THOMAS
Assistant Secretary for
Child Welfare

SUMMARY OF REVISED, DELETED, OR ADDED MATERIALS

The operating procedure was amended to clarify the bed size for reimbursable facilities is 25 beds or less and to clarify special needs for children who are being adopted. The maintenance adoption subsidy chapter was amended to clarify that a child having a significant emotional attachment to their foster parent can only be used as a special needs factor for State/General Revenue Funding. Additionally, changes to policy and practice include elimination of an asset limit for Medicaid and extending the time frame for completing the IV-E Foster Care eligibility determination from 5 business days to 20 business days.

This operating procedure supersedes CFOP 175-71 dated December 31, 2014.

OPR: PDFS

DISTRIBUTION: X: OSES; OSGC; PDES; PDFS; Region/circuit Child Welfare staff; Region/Circuit Economic Self-Sufficiency Services staff.

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Chapter 1

GENERAL INFORMATION

1-1. Introduction.

a. This operating procedure describes the major funding sources used by the Department of Children and Families, herein referenced as DCF or Department, and Community-Based Care (CBC) lead agencies to support child protection activities and services. The operating procedure provides policy and procedures for screening cases, determining eligibility, reporting, and claiming funds.

b. Policies and procedures provided in this operating procedure are intended to complement, not supplant, applicable provisions of state and federal laws and rules. In the event of a conflict or inconsistency between these guidelines and state and federal statutes or regulations, the latter will take precedence and prevail over the provisions in this operating procedure.

c. Any region, circuit and/or community-based care lead agency developing its own operating procedures may not impose additional requirements or forms on the public beyond those specified in this operating procedure. In addition, region, circuit and CBC lead agency specific procedures cannot supersede relevant state and federal statutes and regulations.

1-2. Scope. The Child Welfare Program is financed by federal, state, and local funds. To ensure accountability, staff must follow the procedures outlined in this operating procedure. The policy and procedures apply to Department, Sheriffs' staff conducting Child Protective Investigations, and Community-Based Care (CBC) child welfare staff. This includes child protective investigators, adoption and dependency case managers, revenue maximization specialists, supervisors, attorneys with Children's Legal Services or the Offices of the Attorney General, Child in Care (CIC) eligibility specialists, and staff responsible for data management and fiscal operations.

1-3. Authority.

a. Titles IV-A & E, XIX and XX, Social Security Act, as amended.

b. 45 Code of Federal Regulation (CFR), Parts 1355 through 1357; 45 CFR, Part 233.110; and 45 CFR, Part 435.118.

c. State Plans for Title IV-E, Temporary Assistance for Needy Families, Medicaid, and Title IV-D.

d. Florida's Child and Family Services Plan (CFSP).

e. Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations".

f. Chapters 39, 409 and 414, Florida Statutes (F.S.).

g. 65C-1 through 40, Florida Administrative Code (F.A.C.).

h. United States Department of Health and Human Services, Administration for Children and Families' Child Welfare Policy Manual, Action Transmittals (AT), Information Memoranda (IM), Policy Guides and Manuals (PGM), Program Instructions (PI), Program Regulations (PR) and Federal Register Notices

1-4. Federal Funding Sources. Federal funding for child welfare is from Title IV-A, Title IV-B, Title IV-E, Title XIX, and Title XX of the Social Security Act; and under PL 93-247.

a. Title IV-A and Temporary Assistance for Needy Families.

(1) Title IV-A of the Social Security Act provides grants to states to fund Temporary Assistance for Needy Families (TANF) programs and services. The Florida Department of Children and Families (DCF) serves as the designated state agency responsible for administering funding under the Social Security Act.

(2) Access to programs and services funded by TANF funds is income based and limited to those meeting eligibility criteria. The Office of Child Welfare uses TANF funds to support activities and services designed to remedy some of the underlying conditions that lead to abuse, neglect or abandonment of children; and to strengthen families so that children can be cared for in their own homes or in the homes of relatives. Eligible families must have cases open with Child Protective Investigations (CPI) or Case Management Services (CMS). These activities and services are funded through the following TANF programs:

(a) “Regular” TANF. “Regular” TANF funds help to pay for the administrative costs of intake, child protective investigation and protective services.

(b) Social Services Block Grant II (SSBG II). The TANF SSBG II grant provides funds for social services that seek to accomplish one or more of the following goals: achieving or maintaining economic self-sufficiency; reducing or preventing of dependency; preventing or remedying abuse, neglect or exploitation of children; preventing or reducing inappropriate institutional care; and, securing admission or referral for institutional care when other forms of care are not appropriate.

(c) Relative Caregiver Program. This program provides financial assistance to relatives who are caring full-time for an eligible child. To be eligible, the child must be adjudicated dependent and ordered by the court into the custody of the relative. The relative caregiver must be within the fifth degree of relationship by blood, marriage or adoption to the parent or stepparent of the child for whom the relative caregiver is providing full-time care. The child must meet the technical and financial requirements of the TANF “child-only” program with some exceptions. In addition to the TANF eligibility requirements, the placement of the child must be due to a finding of abuse or neglect by the dependency court, and based on an approved home study of the relative caregiver. Please refer to CFOP 175-79 which may be found at [http://www.dcf.state.fl.us/admin/publications/cfops/175%20Family%20Safety%20\(CFOP%20175-XX\)/CFOP%20175-79,%20Relative%20Caregiver%20Program.pdf](http://www.dcf.state.fl.us/admin/publications/cfops/175%20Family%20Safety%20(CFOP%20175-XX)/CFOP%20175-79,%20Relative%20Caregiver%20Program.pdf) and the Economic Self-Sufficiency Program Policy Manual (CFOP 165-22), which may be found at http://www.dcf.state.fl.us/ess/policy/policy_manual_index.shtml for information on the Relative Caregiver Program.

b. Title IV-B Child Welfare Services.

(1) Title IV-B of the Social Security Act contains two subparts, Subpart 1 and Subpart 2. States receiving Title IV-B funds under either subpart must follow a state plan assurance explaining how the money is used and the programs and services that are run wholly, or in part, with Title IV-B funds. See 42 U.S.C. 622 for federally mandated state plan assurance requirements.

(2) The state plan assurance covers a period of five years with each state mandated to complete an annual update (the Annual Progress and Services Report). The annual updates are required to receive federal allocation of Title IV-B funds, as well as allocation of federal funds under the Child Abuse Prevention and Treatment Act (CAPTA). The update also gives states an opportunity to apply for funding to support the Chafee Foster Care Independence Program.

(3) Upon the expiration of each five year plan, each state is required to submit a new Child and Family Services Plan (CFSP) and to continue with annual updates. Florida's CFSP is available on Florida's Center for Child Welfare Practice at <http://centerforchildwelfare.fmhi.usf.edu/Index.shtml>.

(4) Title IV-B, Subpart 1 of the Social Security Act.

(a) Title IV-B, Subpart 1 of the Social Security Act, also known as The Stephanie Tubbs Jones Child Welfare Services Program, provides grants to states and Indian tribes for programs directed toward keeping families together. The funds are intended for programs and services that assist families whose children have either been removed or who are on the verge of being removed, from their homes. The funds are also used for reunification services and efforts. Programs and services funded under this subpart are available to children and their families without regard to income.

(b) Generally, there is a strong emphasis on using these funds, in combination with state, local, and private funds to:

1. Protect and promote the welfare of all children;
2. Prevent the neglect, abuse, or exploitation of children;
3. Support at-risk families through services which allow children, where appropriate, to remain with their families or return to their families in a timely manner;
4. Promote the safety, permanence, and well-being of children in out-of-home care and adoptive families; and,
5. Provide training, professional development, and support to ensure a well-qualified workforce.

(5) Title IV-B, Subpart 2.

(a) Title IV-B of the Social Security Act, Subpart 2, also known as Promoting Safe and Stable Families (PSSF), provides funding for programs and services designed to:

1. Help prevent the unnecessary separation of children from their families;
 2. Improve the quality of care and services to children and their families;
- and,
3. Ensure permanency for children by either reuniting them with their parents, seeking adoption or by making other permanent living arrangements.

(b) States are required to spend most of their allotted Title IV-B, Subpart 2 funds for services that address:

1. Family support;
2. Family preservation;
3. Time-limited family reunification; and,
4. Adoption promotion and support.

(c) The services are designed to help child welfare agencies and eligible Indian tribes establish and operate integrated, preventive family preservation services and community-based family support services for families at risk or in crisis.

c. Title IV-E, Federal Payments for Foster Care, Adoption Assistance. Title IV-E provides federal funding to help provide foster care and adoption assistance. Florida like all states that receive Title IV-E funds for foster care, independent living services and adoption assistance must follow a Title IV-E State Plan. The Plan includes all applicable state statutory, regulatory, or policy references and citation for each requirement, as well as supporting documentation. Additionally, the plan must be updated when there are significant changes to state programs or in response to changes in federal law.

(1) The Title IV-E Foster Care program helps provide safe and stable out-of-home care for children until they are returned to their homes, are permanently placed with adoptive families, or are placed in other permanent arrangements by a child welfare agency.

(a) The program provides federal funds for foster care maintenance payments to eligible children under state custody. Children must meet eligibility requirements under Title IV-E to qualify for benefits.

(b) In 2006 Florida received flexibility through a five-year federal waiver so funding could follow the child instead of the placement of the child. The flexibility puts funding in line with the program goals of maintaining the safety and well-being of children and enhancing permanency by providing services that help families remain intact whenever possible.

(c) Thus, the Title IV-E foster care funding may be used for children in out-of-home care (foster care, relative care or non-relative care) and in their own homes. The Department was authorized to continue its participation in the Waiver Demonstration Project through September 2018.

(2) Title IV-E Adoption Assistance provides federal funds to facilitate the timely placement of children, whose special needs or circumstances would otherwise make it difficult to place with adoptive families. Eligible children receive Medicaid and a monthly adoption subsidy designed to assist adoptive parents in meeting their needs. Adoptive parents are also eligible for a capped reimbursement of nonrecurring expenses to help offset the cost of adoption.

1-5. Fiscal Charge. All staff of the Department, Sheriff's and CBCs and sub-contracted agencies are responsible for managing the State's resources in accordance with the Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations," which requires that costs be allowable, reasonable and necessary.

1-6. Definitions.

a. 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

b. 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.

c. Adoption Entity. 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.

d. 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”.

NOTE: 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.

e. Assistance Group. All individuals within the standard filing unit (SFU) who are potentially eligible for benefits or services. Siblings and parents of the child who are living in the home are considered the assistance group.

f. 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.

g. Consolidated Need Standard (CNS). As set by the 1989 Florida Legislature, 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.

h. Department. The Florida Department of Children and Families.

i. Deprivation. A child living without the support and care of one or both parents due to one or both parents’ continued absence from the home because of death, separation, divorce, or incarceration; or incapacity, unemployment or underemployment.

j. Florida Safe Families Network (FSFN). See definition for Statewide Automated Child Welfare Information System in paragraph s below.

k. Foster Care Maintenance Payments. Payments to cover the 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.

l. Intermediary. 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.

m. Medicaid. A state administered federal program of medical assistance funded under Title XIX of the Social Security Act that provides basic health care to various coverage groups.

n. Need. Refers to the financial need of the child and/or family.

o. 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.

p. 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.

q. 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.

r. 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.

s. Statewide Automated Child Welfare Information System (SACWIS) or Florida's Safe Families Network (FSFN). The state's automated official case management record for all children and families receiving child welfare services, from screening for child abuse and neglect at the Florida Abuse Hotline through adoption. Additionally, it is the official record for all expenditures related to service provision for children, youth, and/or families receiving in-home, out-of-home, adoption services, adoption subsidies, and post-foster care supports such as Independent Living Services. This financial information supports the determination of cost of care for each individual child, as well as claiming of expenditures to the appropriate funding sources. All pertinent information about every investigative and case management function must be entered into FSFN, including the Child's Resource Record. Staff may have duplicate paper copies of the case file, along with supporting paper documentation, but the FSFN electronic case file is the primary record for each investigation, case and placement provider, including all related financial expenditures and activities.

t. Specified Degree of Relationship. For the purposes of this operating procedure, the following relatives meet the specified degree of relationship: (NOTE: The degree of relationships below includes the marital kinship even if the marriage ended in death or divorce.)

- (1) Mother;
- (2) 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.)

- (3) Brothers, sisters (including those of half blood);
- (4) Aunts, uncles, nieces, nephews;
- (5) Grandparents, great-grandparents;
- (6) First cousins (and first cousins once removed);
- (7) Stepfather, stepmother, stepbrother or stepsister;

(NOTE: The parent of a stepparent is not a specified relative.)

(8) A 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.

(9) Legal spouses of any persons named in the above groups even though the marriage terminated by death or divorce.

(10) Individuals of preceding generations as denoted by prefixes such as grand, great, and great-great.

u. Standard Filing Unit (SFU). All individuals whose income and/or assets, and sometimes needs, are considered in the determination of eligibility for a category of assistance.

v. 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.

w. Title IV-E Foster Care Waiver. A federally approved statewide waiver providing flexibility for Title IV-E Foster Care funds. Initially approved in March 2006, 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 expended for a new five-year period starting October 1, 2013 through September 30, 2018.

x. Voluntary Placement. An out-of-home care placement of a child requested by the parents or legal guardians, without court involvement.

Things to Remember

- Compliance with the requirements of the funding streams promotes child safety, well-being, and permanency, largely because the requirements are synonymous with quality case management.
- Documentation, verification and materials supporting the eligibility decisions must be recorded in Florida Safe Families Network (FSFN).
- Ongoing monitoring and quality improvement are important in ensuring the accuracy of eligibility for federal funding.

1-7. Records Retention for Child Welfare Case Records. Pursuant to ss. 39.202(7), F.S., the Department shall make and keep reports and records of all cases under Chapter 39, F.S., relating to child abuse, abandonment, and neglect and shall preserve the records pertaining to a child and family until the child who is the subject of the record is 30 years of age and may then destroy the records.

a. 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 (in pamphlet CFP 15-7, see the retention schedules for "Family Safety Revenue Maximization Case Records," and for "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.

(1) Circumstances which require retention beyond the specified period include:

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

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

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

(d) 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.

(2) 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, or federal or state audit. 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.

b. Retention Schedules. The Office of Child Welfare is required to establish and maintain, with the approval of the Department of State, Bureau of Archives and Records Management, records retention schedules for all child welfare case records. These retention schedules will be used by child welfare units to determine which case records are eligible for destruction (records may not be destroyed until authorized by the Department of State). The retention schedules include the following requirements:

(1) Adoption Records. The "record copy" for finalized adoption records, either automated or paper, shall never be destroyed.

(2) Child Abuse Records. This record series consists of child abuse or neglect records regardless of the outcome, and regardless of when the records were created, and regardless of when the records were closed. These records are preserved until the child is 30 years of age. They may then be destroyed, but only after receiving authorization from the Department of State.

(3) All Other Child Welfare Case Records. The Department shall make and keep records of all cases brought before it and shall preserve the records until 7 years after last entry and may then destroy the records, but only after receiving authorization from the Department of State.

c. Record Destruction. No record(s) shall be destroyed until authorized by the Department of State. A record shall not be destroyed until the case is past the time limits of the last closed service, and then only after receiving authorization from the Department of State.

1-8. Confidentiality of Child Welfare Records. 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 Security of Data and Information Technology Resources.

a. All child welfare employees, authorized agents and volunteers must receive a copy of CFOP 50-2 upon employment or service with the Department. Receipt of this information shall be documented in the employee's or volunteer's personnel file. Pre-service entry-level training shall include current revisions to confidentiality laws and shall be available on an on-going basis.

b. Information in case records generated as a result of child abuse and neglect investigations is confidential and shall be released only under the specific circumstances provided in sections 39.0132, 39.202, and 39.2021, F.S. Child welfare staff must become familiar with these statutes and must consult with the region legal counsel or child welfare legal services attorney prior to responding to requests for information.

c. An oral request shall be reduced to a written memo reciting the records requested and the date of the request. Any written requests shall be dated to indicate when it was received. When the requested information is provided, the original request will be dated to show how and when the requested material was sent. The name(s) of the employee(s) who gathered the information and the attorney who reviewed the documents will also be recorded. Such records of compliance with the

requests for materials/records shall be maintained by regions in the case file or, if the request extends to records in more than one case file, in a separate file entitled "Public Records Requests."

d. Pursuant to s.39.202(8), F.S., the Department shall affix a stamped notice on the first sheet of all documents released pursuant to that section, stating:

"Pursuant to section 39.202(8), Florida Statutes, a person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of section 39.205, Florida Statutes."

e. The name of any person reporting child abuse, abandonment or neglect shall not be released to any person other than employees of the Department responsible for child protective services, the Hotline, the child protection team, law enforcement, or the appropriate state attorney, without the written consent of the person reporting.

f. The name and all information identifying the reporter must be blacked out (redacted) before allowing access by persons otherwise authorized by law to examine copies of records. Final reports of investigations shall be printed without reporter information. Reports made public after petitioning the court pursuant to section 119.07(7), F.S., must have all reporter names and identifying information removed or blacked out prior to release. This redaction process must be reviewed by the region legal counsel or child welfare services legal attorney prior to releasing the information.

g. Any information in the case record that pertains to the adoption of a child or a child's sibling shall not be released without first consulting with the region legal counsel or child welfare services legal attorney. Disclosure of adoption records is governed by the provisions of section 63.162, F.S., and usually requires a court order.

h. If a case record contains non-department procured or funded medical, psychological, or psychiatric reports, school records, or information about clients received from domestic violence centers, which the Department has obtained through consent of the subject, the information must not be released without written authorization of that person. The person requesting access to the record shall be told of the existence of any such report and referred to the generating source. These reports are confidential and cannot be shared without the consent of the subject.

(1) A limited exception exists if the report, record, or other information has been filed in the official court record. Section 39.0132(3), F.S., allows access to documents in the official court record, subject to the provisions of section 63.162, F.S., to the child, parents or legal custodians of the child and their attorneys, law enforcement agencies, and the Department and its designees.

(2) Also, section 39.0132(3), F.S., does not apply to reports or opinions which form the basis for a dependency petition and which may be discoverable under the Rules of Juvenile Procedure. When a discovery request pertaining to a case in dependency litigation is received, the region legal counsel or child welfare services legal attorney must be consulted prior to release.

i. Pursuant to s.39.202(6), F.S., all records and reports of the child protection team (CPT) are confidential and exempt from the provisions of sections 119.07(1) and 456.057, F.S., and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the Department, and necessary professionals in furtherance of the treatment or additional evaluative needs of the child, or by order of the court.

j. Anyone given copies of an abuse report and related case material is subject to the same requirements to maintain confidentiality as is the Department employee releasing the information. For this reason, recipients of case material, other than authorized Department staff and the guardian ad litem representing the child, must be asked to sign a statement acknowledging they have received a

written notice warning them as to the confidential nature of the records they are receiving, that they understand their responsibility to maintain confidentiality and the penalty for violations.

k. Child welfare staff who utilize laptop computers are reminded that this operating procedure and the security requirements of CFOP 50-2 are applicable to such usage.

1-9. Access to Child Abuse Investigative and Related Case Records.

a. Pursuant to section 39.202, F.S., the following persons or entities have access to Department records (excluding the name of the reporter except as provided in paragraph 1-8e above) concerning child abuse, neglect or abandonment:

(1) The Public. Except for information identifying persons reporting abuse, abandonment or neglect, all records involving the death of a child determined to be a result of abuse, abandonment, or neglect shall be released to the public [s.39.202(2)(o), F.S.]. In addition, section 39.00145(4), F.S., allows access to Department records to others entitled under this chapter to receive that information.”

(2) State and County.

(a) Employees, authorized agents, or contract providers of the Department, the Department of Health, or county agencies responsible for carrying out s.39.202, F.S.:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Healthy Start services; and,
4. Licensure or approval of adoptive homes, foster family homes, child care facilities, family child care homes, informal child care providers who receive subsidized child care funding, or other homes used to provide for the care and welfare of children.

(b) Employees or agents of the Department of Juvenile Justice responsible for the provision of services to children pursuant to chapter 985, F.S.

(3) Law Enforcement. Criminal justice agencies of appropriate jurisdiction [s.39.202(2)(b), F.S.] and the state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred [s.39.202(2)(c), F.S.].

(4) Family of the Child. The parent, or legal custodian of any child who is alleged to have been abused, neglected, or abandoned, and the child, and their attorneys. Access must be granted no later than 30 days after the Department receives the initial report of abuse, neglect or abandonment. However, any information otherwise made confidential or exempt by law (such as SNAP (food stamp) records, independent medical, psychological, psychiatric reports, CPT records, and HIV information) shall only be released in accordance with the federal or state statutory, rule, or regulation access provisions applicable to the particular information. Investigators and case managers shall seek the advice of the region legal counsel or child welfare services legal attorney prior to releasing such information.

(5) Alleged Perpetrator. Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. Access shall be made available no later than 30 days after the receipt of the initial report. When the alleged perpetrator is not a parent, the access shall be limited to information involving the protective investigation only and shall not include any information relating to

subsequent dependency proceedings. Further any information otherwise made confidential (see paragraph d above) shall not be released. [s.39.202(2)(e), F.S.]

(6) Court. A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera [in the judge's chambers rather than the courtroom] unless the court determines that public disclosure of the information is necessary for the resolution of an issue then pending before the court. [s.39.202(2)(f), F.S.]

(7) Grand Jury. A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business. [s. 39.202(2)(g), F.S.]

(8) Department Officials. Any appropriate official of the Department responsible for:

(a) Administration or supervision of the Department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function; or,

(b) Taking appropriate administrative action concerning an employee of the Department alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect or exploitation of a vulnerable adult; or,

(c) Employing and continuing employment of personnel of the Department or Agency for Persons with Disabilities. [s.39.202(2)(h), F.S.]

NOTE: Legislators are not officials of the Department. A legislator's request for case-specific information must go through the chairman of the committee, which has oversight responsibility for Department programs. The region legal counsel or child welfare services legal managing attorney must review such requests.

(9) Auditors and Researchers. Any person engaged in the use of such records or information for bona fide research, statistical, or audit purposes. However, no information identifying the subjects of the report shall be made available to the researcher. [s.39.202(2)(i), F.S.]

(10) Administrative Hearings. The Division of Administrative Hearings (DOAH) for purposes of any administrative challenge. [s.39.202(2)(j), F.S.]

(11) Florida Advocacy Council (FAC). Any appropriate official of the FAC investigating a report of known or suspected child abuse, abandonment, or neglect, the Auditor General or the Office of Program Policy Analysis and Government Accountability (OPPAGA) for the purpose of conducting audits or compliance reviews pursuant to law, or the guardian ad litem for the child. [s.39.202(2)(k), F.S.]

(12) Other State Child Welfare Agencies. Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph 1-9b above. [s.39.202(2)(l), F.S.]

(13) Public Employees Relations Commission (PERC). PERC for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207, F.S. Records may be released only after deletion of all information which specifically identifies persons other than the employee. [s.39.202(2)(m), F.S.]

(14) Department of Revenue. Employees or agents of the Department of Revenue responsible for child support enforcement activities. [s.39.202(2)(n), F.S.]

(15) Other Professionals. The Department may release to professional persons such information as is necessary for the diagnosis and treatment of the child or the person perpetrating the abuse, neglect or abandonment. [s.39.202(3), F.S.]

b. Subsection 39.00145(2), Florida Statutes, allows a child who is subject of the record, the child's caregiver, guardian ad litem, or attorney the right to "inspect and copy any official record pertaining to the child," subject only to the provisions of section 63.162, F.S., pertaining to adoption records. The following sections of Chapter 39, F.S., are examples of where the law specifically allows a child access to his or her dependency records:

(1) HIV/AIDS Records. The following procedures apply to HIV/AIDS records and information access:

(a) Case notes shall not contain any reference to the child's or any other family member's HIV infection or AIDS.

(b) The Department shall disclose to adopting or out-of-home care parents the medical condition, but not the name, of an HIV/AIDS positive child prior to the decision being made to adopt or accept the child into the caregiver's home. Only after the out-of-home care parents have made the commitment to adopt or accept the child into the home shall the name of the child be provided.

(c) The out-of-home care parents shall be provided with documentation of the complete medical history and condition of a child placed in their care, including HIV/AIDS status. This documentation must be maintained by the out-of-home care parents and held as confidential information with access strictly limited to the child's physician(s) and other providers of medical and dental care when treatment is required.

(d) Medical documentation needed for school enrollment, child care or similar purpose must be acquired from the physician and may not contain any reference to the child's HIV/AIDS status.

(e) With the exception of the child's medical records provided to out-of-home care parents (and to the child's natural parents or other legal guardian), all case material which discloses that the child or any other family member has HIV infection or AIDS must be kept within FSFN file cabinet and the hard copy file in a designated "Confidential Information" section used to safeguard sensitive case information.

(f) The child and family case records shall not be segregated or flagged in any way which would permit their identification as case records of HIV/AIDS infected children or family members.

(2) Domestic Violence. Child welfare case records shall not contain any reference to the location of a domestic violence shelter, or information indicating that any named individual(s) (e.g., mother and children) are currently residing in a domestic violence shelter. If absolutely necessary, current address information shall state only that the individual is currently residing in a "safe location". See s. 39.908, F.S. (location confidential); s. 90.5036, F.S. (domestic violence advocates who are employed or who volunteer at a domestic violence center may claim a privilege to refuse to disclose a confidential communication with a victim).

(3) Foster Family Home Licensing Files. Public records law exempts all identifying information (except name) in the foster family home licensing file regarding foster parents (including those who became adoptive parents), their spouses and their children, unless otherwise ordered by the court. Such exempted information includes: the home, business, work, child care, or school

addresses; telephone numbers; social security numbers; birth dates; photographs of licensees, their family and other adult household members; identifying information about such persons in neighbor references; the floor plan of the foster family home, and identifying information about such persons contained in similar sensitive personal information that is provided to the Department or CBC lead agency by such persons.

c. Penalties.

(1) A person who knowingly and willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse registry is subject to the penalty provisions of section 39.205(6), F.S. (second degree misdemeanor).

(2) A person who unlawfully discloses HIV/AIDS information is subject to the penalty provisions of section 384.34, F.S. (second degree misdemeanor).

1-10. Sharing Records with Children.

a. Subsection 39.00145(2), Florida Statutes, allows a child the right to “inspect and copy any official record pertaining to the child,” subject only to the provisions of section 63.162, F.S., pertaining to adoption records. The following is an example of where the law specifically allows a child access to his or her dependency records:

(1) Section 39.504(5), F.S., copy of injunction order shall be delivered to the protected party.

(2) Section 39.01(51), F.S., includes child in the definition of party.

b. No document shall be released without review and approval of child welfare legal services attorney. See also, *C.E.B. v. Birkin*, 566 So.2d 907 (Fla. 4th DCA 1990) [child has clear right under s. 39.0132(3), F.S. (1998), to inspection of the official record; “official record” includes any documents that were considered by the judge in reaching the court’s determination].

c. Care, concern, and sensitivity should guide sharing of records with children. Investigators and case managers must be aware that some records could be disturbing to the child and be prepared to appropriately respond to the child’s reaction. Considering the child’s maturity and chronological age, it is recommended that the record sharing take place during a face-to-face meeting with the child and an adult the child knows and trusts. In no case should copies of records simply be handed over to the child.

d. The child is absolutely entitled to copies of any official court records, except adoption records, pertaining to his or her case. Therefore, copies of any documents which have been filed with the court and which are also in the Department’s case record may be provided to the child. This would include petitions, orders, predisposition reports, judicial review social studies, psychological reports, child protection team reports, medical reports, and any other report or record which has been filed in the official court record. The region legal counsel or child welfare legal services attorney shall be consulted prior to release of any information (other statutory confidentiality provisions may be applicable so as to require referral of the requesting party to the originating source). In addition, the child may be given copies of notes or minutes of case planning meetings.

e. The client is entitled to one free copy of the client file to which he or she has statutory access. The Department may charge a fee for subsequent copies based upon CFOP 15-9, Chapter 2, Charges for Providing Copies of DCF Records or Publications.

1-11. Quality Assurance. The Community Based Care lead agencies in collaboration with the Office of Child Welfare will routinely perform quality assurance and oversight functions of federal funding.

a. Federal Funding Quality Assurance Reviews assess compliance with Title IV-E eligibility criteria. The CBC Federal Funding Quality Assurance Plans should address the questions of:

(1) How the CBC lead agency oversees federal funding eligibility, and,

(2) How the CBC's assure that federal funding eligibility claims are appropriate and accurate. The Plans must include process for case file reviews to assess eligibility determinations.

b. 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.

(2) 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).

Chapter 2

MEDICAID

2-1. What Is Medicaid.

a. Medicaid is a state administered federal program of medical assistance. Each state operates its Medicaid program under a State Plan approved by the Centers for Medicare and Medicaid Services (CMS). The Plan outlines Medicaid policies, eligibility requirements, and reimbursement methodologies.

b. This chapter provides policy and procedures for determining eligibility for children in emergency shelter, out-of-home care (licensed and unlicensed), adoption placements, and the young adults, age 18 to 21, who receive services under s. 409.1451, F.S. Additionally, the Medicaid for former foster care youth ages 18 to 26 is also discussed.

2-2. Coverage Groups. Section 409.903(4), F.S., and Title XIX of the Social Security Act, establish eligibility requirements for Medicaid.

a. The Medicaid coverage groups for children in out-of-home care:

(1) Title IV-E (MCFE). MCFE is for children who are Title IV-E Foster Care or Title IV-E Adoption Assistance eligible. Title IV-E Medicaid ends when the young person reaches age 18.

(2) Non-Title IV-E (MCFN). MCFN is for all children not eligible under Title IV-E:

(a) Medicaid for Children in Emergency Removal Status.

(b) Extended Foster Care, ages 18 -21.

(3) Former Foster Care youth ages 18 up to 26 (MAI). Medicaid for an individual may continue up to age 26 if they were in foster care and receiving Medicaid when they aged out of foster care in Florida. There is no income limit for eligibility. However, the individual must make application for this coverage.

(4) Medically Needy Child in Care (NCFN). NCFN is for a child in care who does not meet the Title IV-E or Non-Title IV-E Medicaid eligibility income requirements. When the income is greater than the medically needy income limit, the exceeding amount is determined as the share of cost. The individual is enrolled but is not eligible until the share of cost is met. The share of cost represents the amount of allowable medical expenses that must be met before the individual can be entitled to Medicaid for the remainder of the month.

(5) Supplemental Security Income (SSI) (MS). MS is for a child receiving SSI that is approved through the Social Security Administration.

b. If the child is under protective supervision in his own home (no removal has occurred), the child's family makes the application for Medicaid. A Child Protective Investigator (CPI) or Case Manager is to help the family apply and to gather the information needed for Medicaid eligibility.

2-3. Medicaid Eligibility.

a. The child must meet all factors of eligibility to be determined eligible for assistance on an ongoing basis. Medicaid eligibility may be determined separately from TITLE IV-E.

b. If the child is removed from the home and placed in either licensed or unlicensed care, Community-Based Care (CBC) staff must apply for Medicaid for the child within 48 business hours of the child's removal. The Economic Self-Sufficiency Child in Care (CIC) Specialist processes the Medicaid eligibility application immediately upon receipt of all required information.

c. Department/CBC staff must report within 10 days to the CIC Specialist any changes that may affect the child's Medicaid eligibility (e.g., demographic data, absent parent information, income, assets, adoption, etc.). CIC will review or re-determine the child's Medicaid eligibility.

2-4. Role of Child in Care and Child Welfare in Determining Medicaid Eligibility.

a. The responsibilities of Child Protective Investigators, Case Managers and Revenue Maximization staff includes:

(1) Gathering, documenting and validating eligibility related information regarding the child and his or her family.

(2) Completing all eligibility related information on appropriate FSFN screens as required for determination or redetermination of Medicaid eligibility. Medicaid eligibility requirements are discussed later in this chapter. See paragraphs 2-5 and 2-6 below.

(3) Recording changes in FSFN that may affect the child's Medicaid eligibility. CIC policy requires that changes be reported within 10 days. CPIs, Case Managers and Revenue Maximization staff must record changes in FSFN within 48 business hours of notification. FSFN will electronically transmit this information to FLORIDA on a daily basis.

(4) Responding timely to requests for additional information from CIC staff.

NOTE: CIC cannot complete the eligibility determination when the necessary information is not provided or verified. This may cause the child to be ineligible for Medicaid.

Things to Remember

- Complete an inquiry into FLORIDA or the Florida Medicaid Management Information System to see if the child currently has Medicaid.

b. The responsibilities of CIC staff include:

(1) Determining the child's eligibility for the Medicaid benefits. FLORIDA will generate electronic notification of the disposition to FSFN.

(2) Contacting the agency or CBC Revenue Maximization specialist if additional information is needed to establish Medicaid eligibility; giving 10 days to return the information.

(a) If information is not returned, CIC should seek assistance from the agency or Revenue Maximization supervisor who submitted the application.

(b) All reasonable steps should be taken to prevent denial or closure of a Medicaid coverage based solely on the lack of response to a request for information. Such action should be brought to the attention of the appropriate level of supervision, including the program office for intervention, if necessary.

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

(4) Instituting Systematic Alien Verification Eligibility (SAVE) requirements for all non-citizen children in care of the Department using documentation of immigration status or noncitizen registration number through U.S. Citizenship and Immigration Service (USCIS).

(5) Generating the child's temporary Medicaid card to the notification address (living address for children in adoption or independent living placement; CBC or agency address for children in foster care placement or in unlicensed placement).

c. Child Welfare Role with Managed Care. Once a child is Medicaid eligible, the designated child welfare staff or notification person will process enrollment into the appropriate managed care plan in accordance with local managed care selection guidance.

2-5. Medicaid for Children in Emergency Removal Status.

a. Children in emergency removal status must meet the technical factors of eligibility for Medicaid and be financially in need. Those factors are:

(1) Be under 18 years of age;

(2) Not emancipated;

(3) Be a United States citizen or qualified non-citizen;

(4) Have a social security number (SSN) or proof that the social security number was applied for;

(5) Child's income must be less than the consolidated need standard (CNS) in effect August 1996 for a household of one; and,

b. If eligible, the child will fall under the "MCFN" program coverage. Medicaid for children in emergency removal status is intended to be short-term and should not exceed 60 days. This status is automatically updated when the IV-E foster care determination is completed in FSFN.

2-6. Medicaid for Children in Out-of-Home Care. Medicaid eligibility is completed for all children entering out-of-home care (licensed or unlicensed setting). CIC uses FLORIDA to build the Medicaid category.

a. A child who is eligible for Title IV-E foster care or IV-E adoption assistance is Medicaid eligible. The Medicaid coverage group of MCFE is built for Title IV-E eligible children.

b. When a child is ineligible under Title IV-E, the Medicaid coverage group is based on a "hierarchy." The next possible Medicaid coverage group for a non- IV-E child is MCFN.

(1) The technical eligibility criteria for non IV-E Medicaid coverage are:

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

(b) Residence. Child resides in Florida.

(c) Citizenship. U.S. citizen or a qualified/eligible non-citizen.

(d) Filing Unit. Each child is a separate filing unit – filing unit of one.

(e) 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.

NOTE: For children living in a licensed facility, the bed capacity must not be greater than 25.

(2) Financial eligibility requirements for the non-IV-E Medicaid coverage group are:

(a) Assets. Assets are not a factor for Medicaid eligibility. Assets are a factor for Title IV-E and must be recorded and documented in FSFN on the assets and employment page.

Things to Remember
<ul style="list-style-type: none"> • Money or property in a child’s Master Trust account or subaccount is excluded as countable assets.

(b) 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. The income information must be entered in FSFN (Assets and Employment page) and documentation scanned in the child’s FSFN record.

- income; and,
1. Child Welfare staff are responsible for gathering information on
 2. Revenue Maximization specialists are responsible to verify income.

NOTE: Child support money collected by the state Child Support Program is considered unavailable to the child and thus is not counted.

(3) If the child is placed in an unlicensed home and does not have Medicaid,

(a) The Revenue Maximization specialist will

1. Review and validate the information in the eligibility and/or Medicaid module for accuracy; and,
2. Save the information in FSFN for initial Medicaid application.

(b) FSFN will automatically trigger and send the information to FLORIDA once the information is saved.

(c) CIC will determine Medicaid eligibility.

c. The Medicaid results will appear on the Medicaid page in FSFN.

d. The Medicaid card (gold card) will be sent to the notification address. The payee may request temporary proof of Medicaid if needed from the CIC staff.

e. If there is a change to the child’s situation,

(1) Child Welfare staff must enter the change in FSFN within 48 hours.

(2) Revenue Maximization will review and validate the information in the eligibility and/or Medicaid module for accuracy and save the information. FSFN will automatically trigger and send the information to FLORIDA once the information is saved.

(3) CIC will review and complete necessary changes to the Medicaid eligibility.

2-7. Child of Minor Parent. 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.

a. 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.

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 (no separate Medicaid determination for the child is necessary).

(1) The child's parent applies for Medicaid on behalf of the non CIC child in the regular community process.

(2) Presumptively eligible newborn coverage will be authorized for the first year, or earlier if a demographic change is made.

NOTE: A child born to a mother, who is a Medicaid recipient, is eligible for Medicaid for one year, until the end of the month in which the child's first birthday occurs. If the child is born on the first day of the month, the coverage ends the last day of the month prior to the first birthday. This is Presumptively Eligible Newborn (PEN) coverage.

c. The needs of the child who is removed or separated from the minor parent must no longer be included in the maintenance payment of the minor parent. In such situations, the child's eligibility for Title IV-E foster care and/or Medicaid will be based on the child's current and individual circumstances.

2-8. Undocumented Non-Citizens.

a. An undocumented non-citizen child in out-of-home care is ineligible for Medicaid due to the fact that the child is considered a non-qualified non-citizen. However, a child in out-of-home care cannot be denied treatment of an emergency medical condition because of his/her immigration status. An application for emergency Medicaid should be made. Refer to Economic Self Sufficiency Program Policy Manual, CFOP 165-22, 2030.1100.

(1) Medicaid benefits will only be authorized to cover the emergency medical situation.

(2) The term emergency medical condition is defined as "a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (a) Placing the patient's health in serious jeopardy;
- (b) Serious impairment to bodily functions; or,
- (c) Serious dysfunction of any bodily organ or part."

b. Medicaid is available for emergency services and provided to an otherwise eligible immigrant from the time that the individual is first given treatment for an emergency medical condition until such time as the medical condition requiring emergency care is no longer an emergency. The decision whether or not the medical treatment is for an emergency medical condition must, in all cases, be made by a physician.

NOTE: Child Welfare staff should consult with the CLS attorney on how to handle emergency services.

2-9. Medicaid for Youth and Young Adults Age 18 and Above (MCFN).

a. Subsidized Independent Living is a program for older youth in foster care age 16 or 17 who demonstrate an ability to handle independence. Although this program is phasing out and no new youth are being enrolled, Medicaid is available for youth in the Subsidized Independent Living Program. Eligibility for Medicaid mirrors that of any other foster care child.

NOTE: The Independent Living Grant is not considered income in determining eligibility for any public assistance.

b. Medicaid for Young Adults (between the ages of 18 – 21) Formerly in Foster Care. Young adults receiving services and support from Postsecondary Education Services and Support (PESS), Extended Foster Care (EFC), and After Care are eligible for Medicaid.

(1) When the young adult reaches the age of majority (age 18) and is discharged from out of home care, the child welfare staff must save and approve the discharge in FSFN.

(2) Once saved, the information is automatically sent to FLORIDA and the young adult is continued on Medicaid until age 21.

(3) Child Welfare staff must ensure that the young adult's address remains current in FSFN.

c. The Medicaid Child Welfare Specialty Plan Managed Care Provider is to ensure care coordination and case management to meet the needs of child welfare recipients.

2-10. Youth Formerly in Out-of-Home Care (Affordable Care Act) (between the ages of 18-26) (MAI).

a. A young adult is eligible for Medicaid under this category if he or she is

(1) Under 26 years of age;

(2) Is not eligible for Medicaid under another coverage group;

(3) Was in out-of-home care under the placement and care responsibility of the state on the date of attaining 18 years of age; and,

(4) Was enrolled in Medicaid while in out-of-home care.

b. Prior to reaching age 21, child welfare staff must:

(1) Assist the young adult in applying for Medicaid under this coverage group, if needed.

To apply online, go to

<https://dcf-access.dcf.state.fl.us/access2florida/access/default.do?performAction=init>.

(2) Ensure that the young adult retains continuity of medical care and has a medical home.

2-11. Medicaid Eligibility for Children Receiving Supplemental Security Income (SSI).

a. Children in licensed out-of-home care who are in receipt of SSI benefits are automatically eligible for Medicaid. Therefore, it is not necessary to do a Medicaid eligibility determination. The child welfare staff or revenue maximization specialist must enter the SSI information in FSFN on the Assets and Employment page.

b. The SSI program does not require that a child be permanently disabled; a child with a severe disability that is expected to last at least one year may qualify for SSI benefits. Therefore, case managers must pursue SSI for disabled children with the local Social Security Administration (SSA). Disabled children who are eligible for Title IV-E during a placement should be referred to the SSA for SSI.

NOTE: Report changes for all children who receive SSI/SSA to the Social Security Administration.

2-12. Medicaid for Children Placed Through Interstate Compact for the Placement of Children (ICPC).

a. Federal regulations require that the board payments for the Department's children placed out of Florida be paid by the sending state. However, the Title IV-E related Medicaid (MCFE) must be provided by the receiving state.

(1) The CIC specialist will enter comments on the CLRC screen in FLORIDA system that the child has been placed in another state.

(2) The state in which the child resides is responsible for generating IV-E Medicaid coverage for the child.

(3) No Florida Medicaid card is generated for children eligible under MCFE out of state.

b. When a Florida Title IV-E eligible child is placed in another state, the following steps must be taken:

(1) Child Welfare staff enters the placement change in FSFN. When a change occurs in FSFN, the system will automatically generate an Action record if there is an existing Medicaid eligibility record.

(a) Upon successfully saving, FSFN automatically generates a Change row on the Medicaid Eligibility Page. The information is then transmitted to FLORIDA via the bi-directional interface.

(b) Once CIC has been notified of the placement change to out of state, the Florida Medicaid will be closed. Federal Medicaid regulation specifies that two states cannot have open Medicaid cases at the same time.

(2) Medicaid is usually authorized from the date of placement for ICPC approved cases in the receiving state.

(3) A CBC or foster parent may contact the ICPC Office at Headquarters for information on Interstate Compact Coordinators in other states to get assistance in opening a Medicaid case for a Title IV-E eligible child in another state.

(4) When the receiving state's Medicaid plan does not cover a service that is covered under Florida's Medicaid program, the CBC should request that the receiving state provide coverage under the Child Health Check-Up (EPSDT) rubric, and the receiving state is responsible for payment of that service.

(5) As long as the child remains Title IV-E eligible, the state in which the child resides remains responsible for providing Medicaid.

(6) When a child ineligible for Title IV-E is placed in another state, the CBC is responsible for arranging for the child to receive medical care.

(a) If the receiving state is a reciprocity state, non IV-E Medicaid is authorized in the receiving state.

(b) If the receiving state is not a reciprocity state, non IV-E Florida Medicaid is authorized.

(c) Revenue maximization must inform CIC that the child's Medicaid should remain open due to out of state placement.

(7) If a child in foster care residing out of state loses Title IV-E eligibility, the state of residence will no longer be responsible for providing Medicaid. The CBC that placed the child will then be responsible for arranging for access to health care for the duration of the time the child remains in foster care.

(8) When a Title IV-E eligible child, residing in another state, is discharged from foster care and continues to reside in that state, the child is no longer automatically eligible for Medicaid in the state in which s/he resides. Therefore, as part of the discharge plan, the case manager must ensure that the child has access to appropriate medical services by assisting in the application process for Medicaid or other medical benefits available in that state. If upon discharge, the child returns to Florida to reside, the case manager must assist the family in applying for Medicaid or other medical benefits in Florida.

NOTE: Young adults receiving services under Florida's Extended Foster Care Program are ineligible for Florida Medicaid if living out of state.

c. Florida is responsible for Medicaid benefits for TITLE IV-E foster care eligible children placed in Florida by another state. CIC will issue a Florida Medicaid card based on the sending state's determination of child's Title IV-E status.

(1) If the child from out of state is Title IV-E eligible, the CBC handling the child's case management is responsible for the child's Medicaid application. Since a Title IV-E eligible child is automatically eligible for Medicaid, no financial eligibility determination is necessary.

(2) When a Title IV-E eligible child from another state is placed in foster care in Florida, the following steps must be taken:

(a) The sending state sends an ICPC package to the Florida ICPC Office.

(b) Florida ICPC Office forwards the request to the appropriate CBC contact for processing of the home study and Medicaid. Title IV-E eligibility documentation and Third Party Health Insurance, if any, must be included in the ICPC package.

(c) CBC notifies the appropriate Title IV-E state agency in the sending state that Medicaid has been authorized by Florida.

(3) The sending state remains responsible for the determination of Title IV-E eligibility for children placed in Florida.

(a) As long as the child remains Title IV-E eligible, Florida remains responsible for providing Medicaid. In all cases, Medicaid is authorized for 12 months.

(b) The CBC must verify the child's residence and continuing eligibility for Title IV-E foster care with the sending state.

(c) If a child from another state is no longer Title IV-E eligible, Florida will no longer be responsible for providing Medicaid.

1. The sending state that has placement and care responsibility for the child must notify Florida of the loss of Title IV-E eligibility.

2. The revenue maximization specialist must inform CIC to close the Medicaid case, and the sending state will be responsible for arranging for the child to receive medical care.

(4) When a Title IV-E eligible child from another state is discharged from foster care and continues to reside in Florida, the child is no longer automatically eligible for Medicaid.

(a) The child welfare staff facilitates an application for Medicaid.

(b) The Medicaid application is referred for a separate determination based on circumstances of the child's living arrangements.

(c) The child welfare case manager should send a notice to the caretaker or the child (if discharged independently) regarding Medicaid eligibility status.

(d) If the child is ineligible, or if eligibility cannot be determined, the child receives Medicaid under continuous coverage provisions for the balance of the 6 or 12 months (depending on the child's age) from the date the child was last determined Medicaid eligible.

(e) If, upon discharge, the child returns to the sending state to reside, the Medicaid case must be closed since the child is no longer living in Florida.

2-13. Retroactive Medicaid Eligibility. Refer to CFOP 165-22, ACCESS Florida Program Policy Manual, Chapter 600 section 0650.0509, for policies and procedures regarding retroactive Medicaid eligibility.

2-14. 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 800, Section 0850.0600.00, Ex-parte Determinations.

2-15. Recertification for Medicaid.

a. A review of continued Medicaid eligibility is completed at least once every 12 months or sooner if the child's circumstances change. The criteria for recertification remain the same as for the initial Medicaid eligibility determination. In all cases, Medicaid for non-Title IV-E eligible children must be authorized for 12-months. All factors relating to eligibility, as outlined in this chapter, are re-evaluated at each recertification.

b. CIC processes Medicaid recertification for Title IV-E and determines continued recertification for non IV-E eligible children. Only the Medicaid related information is sent to the FLORIDA system via the bi-directional interface.

c. A partial redetermination of eligibility must be completed when there is a change in the child's circumstances that may affect his or her Medicaid eligibility. Examples include:

- (1) Removal episode ends and the child returns home or is adopted;
- (2) Child's placement changes;
- (3) Child's income or board rate changes;
- (4) Child turns 18; or,
- (5) Child is emancipated by a court of competent jurisdiction.

d. A new row is automatically displayed and captured in the Medicaid Eligibility History group box. The Action is identified as a "change." Upon clicking Save after creating a new Action, the system will automatically send the information over the bi-directional interface for processing.

e. At discharge, if the child is determined ineligible or if eligibility cannot be determined, the child continues to receive up to 6 or 12 months (depending on the child's age) of Medicaid under continuous coverage provisions.

f. Continuous coverage for children who have been discharged does not apply in the following circumstances:

- (1) Child has moved out of state;
- (2) Child is incarcerated;
- (3) Child is deceased; or,
- (4) Child is an undocumented/unqualified or a non-qualified non-citizen (i.e., short-term visa holder).

2-16. Third Party Health Insurance.

a. Effort must be made to determine if a child in a licensed placement has third party health insurance through a parent. Information on such insurance will be entered into FSFN and shared with CIC. Third Party Health Insurance includes health, hospital, and/or accident insurance policies.

b. Medicaid eligibility must always be determined for children in out-of-home care regardless of the existence of Third Party Health Insurance. Insurance benefits should be applied to the fullest extent to ensure that Medicaid is the payer of last resort. When it is learned that a foster child is in receipt of Third Party Health Insurance, it is important that child welfare staff or revenue maximization specialist enter this information in FSFN.

Chapter 3

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

3-1. Regular TANF.

a. "Regular" TANF (or TANF 200%) helps to pay for the administrative costs of intake, child protective investigation and protective services. To draw down "Regular" TANF funds, staff must complete a Request for TANF Funds/Eligibility Determination in FSFN.

b. As stated in Chapter 1, Title IV-A of the Social Security Act provides grants to states to fund Temporary Assistance for Needy Families (TANF) programs and services. The Florida Department of Children and Families (DCF) serves as the designated state agency responsible for administering funding under the Social Security Act.

c. Access to programs and services funded by TANF funds is income based and limited to those meeting eligibility criteria. The Office of Child Welfare uses TANF funds to support activities and services designed to remedy some of the underlying conditions that lead to abuse, neglect or abandonment of children; and to strengthen families so that children can be cared for in their own homes or in the homes of relatives. Eligible families must have cases open with Child Protective Investigations (CPI) or Case Management Services (CMS).

3-2. Determining TANF Eligibility. An eligibility determination for "regular" TANF funds must be conducted for a child and family if the child is at risk of abuse or neglect, or only needs services to keep him or her home, or to stabilize the placement, or to expedite reunification.

a. The TANF page in FSFN must be completed for the family when an abuse or neglect "report" is generated through the Florida Abuse Hotline and a child protective investigation is initiated.

(1) The assigned child protective investigator or child welfare staff must obtain information to complete the "investigative" TANF eligibility determination as soon as possible, ideally during the investigative process or the request for services.

(2) The completed TANF page (TANF Funds/Eligibility Determination) must be saved and submitted to the supervisor or designee within five (5) working days for an eligibility determination.

(3) The supervisor or designee determines eligibility for "regular" TANF using the 200% of Federal Poverty Level (FPL) standards. The eligibility determination should be completed within five (5) working days of receipt by the supervisor. However, the eligibility determination must be completed before a child investigation or special condition referral can be closed. The child's eligibility status for "regular" TANF 200% must be recorded in FSFN.

(4) The eligibility information is retained in the child's FSFN case file for future reference such as an audit, monitoring or other needs.

b. Institutional Investigations and Special Condition Referrals. A Request for TANF Funds/Eligibility Determination must be completed on all the children who are subject of institutional investigations or special condition referrals. Under this category, TANF determination will only be completed on children who are alleged child victims, not on other children in the home or institutional settings (family foster home, residential facility, child care or school) who are not specifically named in the investigation as alleged child victims.

(1) Institutional Investigations. For institutional investigations involving children living in licensed family foster homes or residential facility on a full time basis, each child will be considered as a "family of one." Complete the TANF determination for each child as a one person household.

(2) Day Care and School Investigations. Determinations for alleged child victims in daycare or school settings differ from other institutional TANF because the children do not reside in the child care or school setting. These children reside with their families; therefore, the families/caregivers must be a part of the determination process for institutional investigations involving children in day care institutions or schools. Staff must include the victim child and all the members of his/her household. While the child's parent(s) or caregiver are not alleged perpetrators for investigations in a child care or school setting, the family's (and child's) income must be included. Follow the same eligibility procedures as a regular protective investigation.

(3) Child on Child Special Condition. A Request for TANF Funds/Eligibility Determination must be completed for each alleged child victim in a child on child sexual abuse report. If an alleged child victim lives with his/her parent(s) or specified relative, include members of his/her household (family members or specified relative) on the form. If alleged child victim lives in an institutional setting, treat the child as a family or household of one. Juvenile sexual offenders involved in a child on child special condition are considered victims for the purpose of TANF program.

3-3. Eligibility Requirements for "Regular" TANF. The following eligibility requirements must be met in order for the family / child to qualify for "Regular" TANF.

a. The child must be under the age of 18 and not emancipated by a court of competent jurisdiction.

b. The child must live with a parent or specified relative.

c. The child must be a United States citizen or qualified noncitizen.

d. The child must reside within the state of Florida.

e. Family/Child income must be below 200% of the FPL for household size.

(1) Income information must be obtained from the family when possible. However, when the family does not provide the income information, it may be obtained from available collateral sources. Self-declaration of income by the parent(s) or specified relative of the child is acceptable.

(a) The source of the income information must be entered in FSFN on the Assets and Employment page. The income is then system derived and is pre-populated on the TANF page.

(b) When the source of income cannot be documented, or income information cannot be obtained, the child will be ineligible for TANF.

(2) When the child resides with his or her parent(s) or legal guardian at the time of the initial determination and/or redetermination of TANF eligibility, the income of the child and family will be

counted. The child's parents and other minor siblings who are living together in the household with the child are considered one economic unit and all must be included in the TANF determination. All the income of the child and child's parents must be counted.

(3) When the child resides with a specified relative, other than the parents or legal guardian at the time of the initial determination and/or redetermination of TANF eligibility, only the income of the child is counted. The child will be considered a "family of one," and only the income of the child is counted.

(4) When the child's eligibility has not been determined, the default is "TANF ineligible."

(5) The federal poverty levels are revised annually effective July 1.

3-4. TANF Eligibility Period.

a. The child/family's period of eligibility must not exceed 12 consecutive months. Once the initial determination of eligibility is completed, continued eligibility of the child/family must be reviewed at 12-month intervals, as long as the case is open for services.

b. A new Request for TANF Funds/Eligibility Determination may be completed prior to the annual determination when the child returns home, or goes from licensed to unlicensed care and vice versa.

c. FSN will generate a TANF Determinations Due Report for children whose TANF eligibility period is nearing the 12th month. Refer to the TANF Functional Specification Document for details.

Chapter 4

TITLE IV-E FOSTER CARE

4-1. Overview.

a. The Title IV-E foster care offers federal matching funds to states with an approved Title IV-E State Plan to help care for children in licensed out-of-home settings until they can safely return home, be adopted or placed in another planned arrangement for permanency. To claim these funds, program eligibility and reimbursability requirements must be met.

b. Title IV-E foster care is a program for children who meet the requirements for the foster care assistance program funded by Title IV-E of the Social Security Act. Program benefits include Medicaid coverage and foster care payments.

4-2. Title IV-E Waiver Demonstration.

a. In 2006, Florida received a waiver from the United States Department of Health and Human Services. The Department receives a capped amount of Title IV-E foster care funds that can be expended on any child welfare purpose, rather than being restricted to maintenance payments for licensed out-of-home care.

b. The limitations imposed on the use of Title IV-E funds have served as an impetus for the development of Florida's flexible funding waiver demonstration. The overall goals of Florida's waiver demonstration are to:

(1) Improve child and family outcomes through the flexible use of Title IV-E funds;

(2) Provide a broader array of community-based services, and increase the number of children eligible for services; and,

(3) Reduce administrative costs associated with the provision of child welfare services by removing current restrictions on Title IV-E eligibility and on the types of services that may be paid for using Title IV-E funds.

c. Florida's waiver demonstration was designed to determine whether increased flexibility of Title IV-E funding would support changes in the state's service delivery model, maintain cost neutrality to the federal government, maintain safety, and improve permanency and well-being outcomes.

d. 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.

e. Although the Title IV-E Waiver Demonstration Terms and Conditions allows the state to use Title IV-E Foster Care funds for all children and families we serve, it does not eliminate the requirement for completing Title IV-E eligibility determinations for children in licensed care. Waiver funds should not be used for costs reimbursed through Medicaid for Medicaid eligible services.

4-3. Title IV-B, Title IV-E and MEPA

a. Title IV-B Protections. 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:

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

(2) Timely judicial reviews of the child's case must be held.

(a) 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.

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

(3) 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.

(4) 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:

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

(b) 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.

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

b. Multiethnic Placement Act and the Interethnic Adoption Provisions (MEPA-IEP). 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. 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.

(1) Neither the Department nor its contracted agents that receive funds from the federal government and are involved in adoption or foster care placements may:

(a) 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,

(b) 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.

(2) The child's placement for foster care or adoption 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.

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

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

1. 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.

2. The prospective family's feelings, capacities, preferences, and attitude as these relate to their ability to nurture a child of a particular background whether fostering or adopting.

3. 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.

4. 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 and stigma 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 who 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.

(5) The U.S. 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.

(6) 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.

(a) 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.

(b) The plan should include both general and targeted activity. General recruitment activities make use of radio, television, print and social 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.

(c) 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.

4-4. Title IV-E Foster Care.

a. The Title IV-E foster care reimbursements for foster care maintenance payments made to licensed out-of-home care providers cover:

(1) 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,

(2) In the case of residential group care, payments may include the reasonable costs of administration and operation of such facility necessary to provide the items noted under paragraph (1) above.

b. Two major concepts are important for claiming Title IV-E foster care funds: eligibility and reimbursability. A child must be determined Title IV-E eligible and reimbursable for the state to claim program funds. The child's initial eligibility is based upon the circumstances at the time of his or her removal from home. The child's reimbursability status will vary over the duration of the removal episode, depending on the type of setting he or she is placed in and certain court findings about the child.

c. A Title IV-E foster care eligible child must meet reimbursability requirements prior to claiming federal financial participation.

(1) Reimbursable Facilities or Placement. The child must be placed in a Title IV-E eligible facility or placement. Eligible facilities are those that are fully licensed (per Florida Administrative Codes 65C-13, 65C-14 and 65C-15):

(a) Family foster homes.

(b) Group homes.

(c) 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 may flow through a for-profit agency to the foster care provider. The payments must go directly to the foster home parents or through the public or private non-profit child placing or child caring agency.

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

(2) Non Reimbursable Facilities. Non reimbursable facilities include:

- (a) Unlicensed homes.
- (b) Public facilities with more than 25 beds.
- (c) Detention/locked facilities.
- (d) Training schools or youth camps.
- (e) 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.

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

- (1) The removal episode ends; or,
- (2) The child turns age 18; or,
- (3) The child is emancipated; or,
- (4) The child becomes legally married with no annulment of the marriage.

e. The child's eligibility may temporarily end when one of the following occur:

(1) The child is in an eligible/no reimbursability status for any month the Title IV-E eligible child is in a non reimbursable facility or placement.

(a) However, if the child is in an facility whose license expires during the month, Title IV-E reimbursement may be claimed for the full month, provided all other eligibility factors are met.

(b) If the facility or placement remains unlicensed, Title 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" (REFPP) is not made within 12 months of removal (or within 12 months of the previous REFPP finding), the child becomes non-reimbursable beginning with the month after the finding is due and remains non-reimbursable until the finding is made.

4-5. 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, (i.e. guardianship); or,
- d. Aged out of care.

4-6. Title IV-E Eligibility Determination.

a. All children who come into licensed out-of-home care must have an eligibility determination for Title IV-E eligibility and reimbursability within 20 business days after the Department obtains placement and care responsibility. It is optional on the part of the CBC to conduct an eligibility determination for children who go into unlicensed care. However, pertinent information must be gathered and entered in FSFN should the child go into a licensed placement or have a permanency goal of adoption at a future date during the removal episode.

b. The revenue maximization specialist must complete an eligibility determination in FSFN for:

(1) A child in licensed out-of-home care (foster care) for whom the Department has responsibility for placement and care.

(2) A child being placed out of state through Interstate Compact for Placement of Children (ICPC).

(3) A child whose parental rights have been terminated.

c. A child in licensed care is not Title IV-E eligible based on presumed eligibility.

4-7. AFDC Eligibility. At the time of removal, the child must meet Aid to Families with Dependent Children (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. The revenue maximization specialist uses the facts of the removal home to determine if the child received AFDC or would have been eligible to receive AFDC under rules in effect on July 16, 1996, had an application been made. The child must meet both technical and financial requirements.

b. Technical Requirements. Technical requirements include:

(1) Florida Residency. There is no minimum time of residency requirement. There need only be the intent that the child reside in Florida.

(2) Citizenship or Qualified Non-Citizen Status. A child must be:

(a) A United States citizen; or,

(b) A qualified non citizen as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193. Under Section 431 of PRWORA, a qualified non citizen's access to federal public benefits is restricted for five years beginning on the date of entry into the United States, unless subsection (b), (c), or (d) of this section applies. Under PRWORA, a qualified non citizen is:

1. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (the "Act");

2. An alien granted asylum under Section 208 of the Act;
3. A refugee admitted to the United States under section 207 of the Act;
4. An alien paroled into the United States under section 212(d)(5) of the Act for a period of at least one year;
5. An alien whose deportation is being withheld under Section 243(h) of the Act;
6. An alien granted conditional entry under section 203(a)(7) of the Act as in effect prior to April 1, 1980;
7. If the child is a qualified alien who is placed with a qualified alien or United States citizen, the date the child entered the United States is irrelevant and the five-year restriction on federal public benefits does not apply; or,
8. If the child is a qualified alien who entered the United States on or after August 22, 1996, and is placed with an unqualified alien, the child would be subject to the five-year residency requirement for federal public benefits at section 403(a) of PRWORA unless the child is in one of the excepted groups.

(3) Specified Degree of Relationship. The following relatives meet the specified degree of relationship. The degree of relationships below includes the marital kinship even if the marriage ended in death or divorce:

- (a) Mother.
- (b) 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.)
- (c) Brothers, sisters (including those of half blood).
- (d) Aunts, uncles, nieces, nephews.
- (e) Grandparents, great-grandparents.
- (f) First cousins (and first cousins once removed).
- (g) Stepfather, stepmother, stepbrother or stepsister. (NOTE: The parent of a stepparent is not a specified relative.)
- (h) 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.
- (i) Legal spouses of any persons named in the above groups even though the marriage terminated by death or divorce.
- (j) Individuals of preceding generations as denoted by prefixes such as grand, great, and great-great.

(4) Age. The child must be 17 years of age or younger.

(5) Welfare Enumeration (provision of a Social Security Number [SSN]). The child's Social Security Number or revenue maximization specialist's statement that the application for a Social Security Number was filed and the date filed.

(6) Deprivation (see Attachment 2 to this chapter). The continued absence of one or both birth or adoptive parents, or a stepparent from the home constitutes the basis for deprivation of parental support or care. Deprivation of parental support in relation to the home from which the child is removed exists due to:

(a) Death of a parent (either parent of a child is deceased).

(b) Continued absence of the parent from the home. There is a continued absence of one or both parents when:

1. One or both parents are out of the home and the nature of this absence is such as to either interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child; or,

2. Absence due to divorce, separation, incarceration, or other verified and documented circumstances.

NOTE: Deprivation does not exist in a two parent household when one or both parents are away from the home due to military deployment.

(c) Physical or mental incapacity. Incapacity is documented as parental deprivation in a one-parent or two-parent household as follows:

1. One or both parents' receipt of Supplemental Security Income (SSI) or being found eligible for Old-Age, Survivors, and Disability Insurance (OASDI) or SSI based on disability or blindness;

2. One or both parents receive Social Security Benefits based on disability or blindness; or,

3. One or both parents have a physical or mental defect, illness, or impairment that is expected to last at least 30 days, is supported by competent medical testimony, and substantially reduces or eliminates the parent's ability to support or care for the child.

(d) Unemployment or underemployment. Deprivation exists due to unemployment/underemployment when both parents (the mother and legal or non-legal father on whom a non-judicial determination of paternity has been made) live together with the child at time of removal, and one parent is determined to be the primary (principle wage) earner and meets the special unemployed criteria.

1. Unemployment is verified by one of the following:

- If the principle wage earner claims no current employment, verify any loss of employment that occurred within the prior 60 days.
- If the principle wage earner is employed, verify the number of hours worked during each month for which benefits are authorized at the time of application disposition.

- If the principle wage earner is employed intermittently 100 hours or more per month, also verify the number of hours worked during the two months prior to the month of approval and the anticipated number of hours to be worked the month following month of approval.

2. Underemployment may be documented as parental deprivation in a two-parent household if each parent meets one of the following criteria:

- Is working less than 100 hours per month; or,
- Has a temporary one-month increase to over 100 hours, but:
Worked less than 100 hours in each of the 2 previous months; and,
Is expected to work less than 100 hours in the following month.

c. Financial Requirements. 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. An assistance unit with resources in excess of \$10,000.00 is ineligible.

(a) The most common resources are motor vehicles and money, including cash, bank accounts, and federal income tax refunds.

(b) If an assistance group member has a licensed motor vehicle, only the first \$1,500 of equity value of the vehicle is exempt. Any equity over \$1,500 is counted toward the \$10,000.00 resource limit.

(c) To accurately capture the estimated (or “equity”) value of each vehicle, the case manager or revenue maximization specialist must first determine the actual value of the vehicle, then minus any indebtedness. (Indebtedness is the amount needed to satisfy contract terms that must be met to establish ownership of the asset.) See Attachment 5 to this chapter.

(2) Income Limit. First, the family must not have gross income (less appropriate income disregards) in excess of the Consolidated Need Standard (CNS). Second, 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 this chapter for CNS amounts.)

(a) In order to determine the child and family income, revenue maximization will:

1. Verify the countable gross earned income of all the family members in the assistance unit.
2. Verify the countable unearned income of all the family members in the assistance unit.
3. Document the information in FSFN on Assets and Employment page.

NOTE: Verification is confirming the accuracy of information through a source other than the individual. Information may be verified through automated means, telephonically, collateral contact, written statements, or pay stubs.

(b) An assistance unit is not eligible when all available countable earned and unearned income (in the removal month) exceeds the need standard for the assistance group size under rules in effect on July 16, 1996.

(3) FSFN Eligibility Module. FSFN will determine whether the child was AFDC eligible based on the responses to the eligibility questions. The FSFN eligibility module:

(a) Considers the income and resources of the parent, parents, or stepparent from whom the child was removed in the month of removal.

(b) Excludes SSI as countable income and the person who receives the SSI from the number in the household for AFDC.

d. Standard Filing Unit (SFU). To determine a child's AFDC eligibility, it is necessary to identify the members of the AFDC standard filing unit (SFU) from among all the people living in the home of removal. The size and makeup of the SFU allow determination of the total countable income and resources for the SFU, which ultimately determines whether the child is "needy."

(1) The following people who live in the home of removal must be included in the AFDC SFU, unless they are exempted:

(a) The child and all siblings (including those legally adopted and blood-related) who also meet the AFDC requirements and are under the age of 18; and,

(b) The child's legal parents, including natural or adoptive parents.

(2) The following people are not included in the AFDC SFU:

(a) Any person (child, sibling or adult) who is receiving SSI.

NOTE: If the child receives SSI, he/she may still be eligible for IV-E. While the child would not have been included in the standard filing unit for AFDC budgeting purposes, this does not exclude the child from being IV-E eligible.

(b) Any person (child or adult) who does not meet the AFDC requirements for U.S. citizenship or does not have a valid immigration status pursuant to 45 CFR §233.50, including a child's natural or adoptive parent.

NOTE: If a parent is not a U.S. citizen or does not have a valid immigration status, the parent is considered disqualified for AFDC. A disqualified parent's income and resources must be counted as specified in ACCESS Florida Program Policy Manual, Chapter 2200, Section 2250 .

(c) Any relative in the home, unless the relative has managing conservatorship for the child.

(d) Any stepparents in the home. A stepparent's income and resources must be counted as specified in ACCESS Florida Program Policy Manual, Chapter 2650.0000, Child in Care, section 2650.0205.

(e) Any child receiving Adoption Assistance benefits

(3) Whose income is counted:

(a) The earned and unearned income of each member of the SFU;

(b) The income of a stepparent (a person married to the child's legal parent) or a legal parent disqualified from AFDC because of his or her lack of U.S. citizenship or valid immigration status who lives in the home, subject to the stepparent budgeting procedures; and,

(c) When a minor parent lives with her parents, the income of the minor's parent, subject to the stepparent budgeting procedures.

e. The child meets the "AFDC" test if the technical and financial requirements are met.

4-8. Initial Title IV-E Foster Care Eligibility. For an initial Title IV-E eligibility determination, the child must meet the "AFDC" test as well as the following Title IV-E requirements:

a. Finding of "Contrary to the Welfare" Required at First Hearing.

(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. The first court order that sanctions the child's removal from his/her home must have a written "contrary to the welfare" finding.

(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.

b. Finding of Reasonable Efforts Required. 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) 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.

NOTE: 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.

(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) When a court determines that reasonable efforts to return the child home are not required, a permanency hearing is held within 30 days of that determination, unless the requirements of the permanency hearing were fulfilled at the court hearing in which the court determined that reasonable efforts to reunify the child and family are not required. 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.

c. What Is the 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.

(1) 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:

- (a) A hospital, following either birth or an illness or injury;
- (b) A homeless shelter;
- (c) A car or other vehicle; or,
- (d) A tent or other temporary shelter.

(2) The child's removal from the home must occur pursuant to:

(a) A voluntary placement agreement, signed by a parent or specified relative, that results in the "physical" or "constructive" removal of the child from the home; or,

(b) A judicial order that requires the child's removal from the parent or specified relative and gives the Department responsibility for the placement and care of the child. 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) When identifying the removal home of the child, the following must be considered:

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

1. When a child is removed from a parent by the court, that parent's home is considered the removal home.

2. 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.)

3. 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.)

(b) 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.

(c) 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 Title IV-E, as the child has not resided with a specified relative within the six-month period prior to removal.

(d) 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. A constructive removal is considered a “paper removal.” The agency has obtained placement and care responsibility for the child, but the agency did not physically remove the child from his/her home.

Example 1: The child had been living with friends for two weeks preceding the time police removed the child on May 13. The parents left the child with the friends for a couple of days and did not return. The agency filed a shelter petition on May 14. Prior to living with her friends, the child was living with her parents until April 30. The parents’ home is the removal home and May 13 is the removal date (physical removal).

Example 2: The child’s mother made arrangements in January with her good friend to care for her 2 year old daughter while the mother is in rehabilitation. The Department shelters the child on April 2, four months later. The removal home is the best friend’s home. The removal date is April 2 (physical removal).

Example 3: The child was living with his father until March 22, at which time he went to live with his aunt. On April 3 the agency placed the child into the aunt’s home via a court order. The father’s home is the removal home and April 3 is the removal date. (Constructive Removal)

Example 4: The child was living with her grandmother/guardian and mother, and on January 1 the mother leaves the home. The grandmother/guardian contacts the agency for assistance and the agency petitions the court on May 1. On May 3 the agency places the child into the grandmother/guardian’s home via a court order. The child’s mother is the removal home and May 3 is the removal date. (Constructive Removal)

4-9. Interim Title IV-E Eligibility Reviews. A review of Title IV-E eligibility must be completed when there are changes in the child’s circumstances that may affect his or her Title IV-E eligibility.

a. 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.

(1) 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.

(2) 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 temporarily non-reimbursable for Title IV-E foster care. Once such a determination is made, Title IV-E reimbursement may resume.

(3) At least once every 12 months while the child is in foster care, unless a judicial determination of reasonable efforts to finalize a permanency plan is made, the child is temporarily non-reimbursable for Title IV-E foster care. The date of the child’s last judicial determination determines the

date the next judicial determination is due. The child remains temporarily non-reimbursable for Title IV-E foster care until such a judicial finding is made.

b. When a child temporarily leaves licensed foster care, certain factors must be assessed to determine if the child continues to be eligible and/or reimbursable.

(1) Examples of changes that may affect a child's Title IV-E eligibility include:

- (a) Placement into an unlicensed or provisionally licensed setting.
- (b) Child moves into ineligible living arrangement.
- (c) Child turns age 18.
- (d) Child receives countable assets.
- (e) Child is discharged from foster care.

(2) In making the decision, revenue maximization specialist must review the information in FSFN and determine whether:

- (a) The child is in licensed foster care?
- (b) The original court order or voluntary licensed placement agreement is still in effect in relation to the removal of the child from his/her home?
- (c) The child is still under the placement and care responsibility of the Department.

(3) If all of these conditions are met, even though there has been a temporary interruption of the licensed 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, revenue maximization must determine whether:

- (1) The child remains in out-of-home or foster care; or,
- (2) The home of the relative is now considered to be the child's own home.

e. If it is determined that the child is still in out-of-home or foster care, this is considered as a continuation of the removal episode, and therefore the child's eligibility may change to eligible and non-reimbursable or remain the same if in a licensed placement. 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.

f. 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.

g. 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.

4-10. Dual Eligibility – Determining Title IV-E Eligibility When a Child Receives Third Party Benefits.

a. A child may receive 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.

b. If a child is receiving Supplemental Security Income (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.

(1) 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 offset the child's cost of care with the SSI benefits. The associated administrative costs are Title IV-E reimbursable. If the child is Title IV-E eligible, the appropriate FSFN eligibility code is "Title IV-E Eligible/Non-Reimbursable".

(2) 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 FSFN is Title IV-E eligible/reimbursable.

(3) Each CBC and Region/Circuit must have an established protocol in place that fulfills the requirements of the local Social Security Administration. The protocol ensures:

(a) Signature of the DCF liaison on the Notification Letter; (The Notification Letter (Attachment 4 to this chapter) must be completed and provided to the Social Security Administration when verifying funding for a child's foster care maintenance payment.)

(b) Identification of the person who will provide both the Notification Letter and a copy of the August 12, 2008 memo (Attachment 6 to this chapter) to SSA when applying for SSI for a child in foster care;

(c) Notification to Children's Legal Services if a child's SSI is reduced due to a fee waiver or the amount of SSI is based on a child's eligibility for Title IV-E foster care; and,

(d) Identification of the person who applies for any SSA benefit for a child in foster care.

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

4-11. 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.

(1) A signed Voluntary Placement Agreement (VPA), form CF-FSP 5004 available in DCF Forms, must be executed and be available in the child's case record. The VPA must be scanned into the file cabinet in FSFN.

(2) 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.

(3) 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 Title IV-E eligible. Refer to paragraphs 4-4, 4-5, 4-6 and 4-7 of this operating procedure for Title IV-E eligibility requirements.

b. In order to continue Title IV-E eligibility, within 90 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 90 days, the child may not be Title IV-E eligible for the remainder of the removal episode.

4-12. Children of Minor Parents in Foster Care. A child living with his/her minor parent in a licensed placement 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.

a. When the minor parent retains custody of his/her child and the child 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. 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.

(1) A separate Title IV-E foster care maintenance payment is not made for a child of a minor parent (unless the child has been legally removed from the minor parent).

(2) The eligibility of the minor parent's child 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's needs. Only the income and assets of the minor parent are counted.

(3) The "contrary to the welfare" status is absent if the child remains in the home with the minor parent.

(4) 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 will be based on the child's current and individual circumstances.

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

c. If the minor parent is not Title IV-E eligible, he/she has an option of including the child on a community case for Medicaid coverage or applying for cash assistance and Medicaid assistance for the child.

(1) The CIC specialist will determine the child's eligibility for cash assistance with information provided by revenue maximization specialist. Caution must be used in these cases to ensure that the foster parent is not receiving an enhanced payment to compensate for the additional costs.

(2) The CIC specialist will consult with revenue maximization specialist prior to authorizing cash assistance.

4-13. Adjudicated Delinquents.

a. 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.

b. Following are the eligibility criteria needed to make a Title IV-E claim.

(1) There must be a physical removal of the child from his/her home. The judicial determination must be made in the first order that results in the removal of the child from the 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." 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.

(2) 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.

(3) The child must be dependent and the child's family must meet AFDC eligibility.

(4) The placement and care of the child must be the responsibility of the Department.

(5) The child must be placed in a licensed placement.

(a) 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. Children in residential commitment facilities are not Medicaid eligible.

(b) 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?

(6) An otherwise Title IV-E eligible child, initially placed in a detention facility, may become Title IV-E reimbursable when transferred to a licensed facility which meets the Title IV-E requirements.

(a) 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.

(b) 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.

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 primary (principal) wage earner (PE), 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 (see Chapter 4, paragraph 4-7b(6)(d))

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, 1450.0722.02): Medical sources of information for determining incapacity include hospitals (medical or psychiatric), Social Security Administration, Veteran’s Affairs Administration, Vocational Rehabilitation and/or Chiropractor.

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 90 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:

- Initial eligibility determination dated: _____
- Documentation of Citizenship Status (Acceptable Documentation: Birth certificate, Declaration of Citizenship, INS documentation)
- Social Security Number 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 continuous IV-E reimbursability throughout the removal episode (child aged out; child moved into a licensed or unlicensed placement; changes in child’s income, etc.)

Court Documentation:

- Modification Orders of Placement/Change
- Dependency Petition(s)
- Adjudication Order(s)
- PDR/PDS
- 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 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)
- FSN Eligibility input

Sample Notification Letter to Social Security Administration
(use letterhead paper)

DATE _____

SOCIAL SECURITY ADMINISTRATION

Enter address
of local SSA
Office

<p>Regarding: Child's Name: _____ Date of Birth: _____ SSN _____</p>
--

This is to advise that the Department of Children and Families/ _____
(Name of Lead Agency)
has been awarded care and custody of _____ and is the child's
(Name of Child)
representative payee.

The foster care maintenance payments on behalf of a child receiving SSI come from state (general revenue) funds. These payments have been coded "IV-E eligible/ non IV-E reimbursable" in our payment system.

Federal Funding Specialist

Address

Phone/FAX/Email

Representative, Department of Children and Families

Address

Phone/FAX/Email

Determining Value of a Vehicle

A vehicle is any automobile, truck, motorcycle, etc., that is used to provide transportation, and includes vehicles that are unregistered, inoperable, or in need of repair.

The estimated value entered on the Assets and Employment page in FSFN must reflect the "equity" value of the vehicle.

To capture the estimated (or "equity") value of each vehicle, the case manager or revenue maximization specialist must first determine the actual value of the vehicle, then *minus* any indebtedness. (Indebtedness is the amount needed to satisfy contract terms that must be met to establish ownership of the asset.)

Note: It is vital to determine the "equity" value for each vehicle. The Assets and Employment page in FSFN captures information on the "amount owed," FSFN does not support the calculation of the "equity" value.

Estimated or "equity" value of a vehicle:

The equity value is calculated by taking the NADA value of a vehicle and subtracting the amount owed.

- The market value of a car, truck or van is determined with the listing of average trade-in value given in the most recent edition of either the Southeastern Edition NADA Official Used Car Guide or the NADA Older Car Guide. (<http://www.nadaguides.com/Cars>)
- No adjustments to the vehicle's value are made by the revenue maximization specialist for high mileage, low mileage, and options listed such as air conditioning, radio, and automatic transmission.
- If an individual owns a vehicle that may be worth considerably more than the NADA value because of its model and/or year, such as a 1965 Ford Mustang, the NADA value for the oldest comparable model is still used.

A valuation from a reputable automobile dealer, rather than the NADA value may be used when:

- the "average trade-in" value affects the individual's eligibility;
- the vehicle was in an accident, sustained major mechanical and/or body damage which has not been repaired; or
- the vehicle is inoperable due to mechanical conditions that have not been repaired.

A reputable automobile dealer valuation may also be used when the vehicle is in excessively poor condition bodily and mechanically so that compared to other vehicles of the same make, model, year and equipment its value is substantially affected. A vehicle does not qualify on this condition based solely on excess mileage and/or minor body damage such as rust, as these conditions are considered in the NADA book values given. The case record must contain an explanation of the condition of the vehicle that led the individual or eligibility specialist to believe the book value to be incorrect.

When obtaining the dealer's evaluation, the revenue maximization specialist must request the dealer to provide the current market value of the car or the resale value. The trade-in value or

wholesale value is unacceptable. The Department cannot assume liability for any costs arising from obtaining a dealer valuation.

Note: When a dealer's valuation has been used due to the condition of the vehicle, the case manager may need to assist the revenue maximization specialist with obtaining information from the family on any repairs affecting the value of the vehicle.



State of Florida
Department of Children and Families

Charlie Crist
Governor

Robert A. Butterworth
Secretary

DATE: August 12, 2008

TO: Regional Directors

THROUGH: Don Winstead, Deputy Secretary
George Sheldon, Assistant Secretary for Operations
Melissa Jaacks, Assistant Secretary for Administration
David Fairbanks, Assistant Secretary for Programs

FROM: Patricia Badland, Director of Office of Family Safety

SUBJECT: Supplemental Security Income & Eligibility Under IV-E Foster Care Waiver

PURPOSE: This memorandum provides clarification about children who receive or are potentially eligible to receive Supplemental Security Income (SSI) with respect to the IV-E Foster Care Waiver.

BACKGROUND: Florida implemented its federally approved IV-E Foster Care Waiver in October 2006. The primary purpose of the waiver is to give the state the flexibility to use Title IV-E foster care payments for a broad array of child welfare services including prevention, intervention, and reunification services to children who are not in out of home care. Use of IV-E foster care funds for such services would not have been permissible prior to the waiver but are permissible under the waiver.

Headquarters contacted the SSI Program Team from the Atlanta Regional Social Security Administration (SSA) Office and resolved the Social Security Administration's questions on Florida's waiver and SSI eligibility. However, some of the local Social Security Administration offices continue to raise questions on how we fund an SSI eligible child's foster care maintenance payment under the waiver. This memorandum provides a summary of the Department's position on the relationship of SSI and waiver funds as resolved with the SSA regional office.

ACTION REQUIRED: Please share this memorandum with circuit administrators, community-based care lead agency chief executive officers, and all appropriate staff, including revenue maximization specialists.

Question: Under the IV-E Foster Care Waiver, how does the Department/Agency fund a child's foster care maintenance payment when the child receives SSI or is potentially eligible for SSI?

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

Supplemental Security Income & Eligibility Under IV-E Foster Care Waiver
August 12, 2008
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Answer: First, for children who are dually eligible, the process remains the same as in pre-waiver. The children are coded as IV-E eligible/non-reimbursable. This means, they are not receiving IV-E funds. Their maintenance or cost of care is funded with the child's SSI payment and other costs are funded with state funds. Second, it is important to differentiate between IV-E eligibility and payments made from Title IV-E funds.

It has been the Department's long standing policy for foster care maintenance payments made on behalf of children receiving SSI to not be made from Title IV-E foster care funds, even though the child may be IV-E eligible. These payments have been coded "IV-E eligible/ non IV-E reimbursable." This has not changed under the waiver. It remains our intent to make foster care maintenance payments from state (general revenue) funds when such payments are made on behalf of children receiving SSI.

Because the state continues to put the same amount of funding, or greater, into child welfare services (including state general revenue and other federal funds), we can say with confidence that funds that were formerly allocated to pay foster care maintenance payments on behalf of children who were not IV-E eligible under the waiver continue to be allocated. Therefore, it is highly unlikely that any federal IV-E foster care funds are being used to pay foster care maintenance funds for children who were not IV-E eligible prior to the waiver.

In summary:

- Our policy, both prior to the waiver and after, is to pay foster care maintenance payments on behalf of SSI eligible children who are IV-E eligible from state (general revenue) funds rather than IV-E funds.
- For children who are not IV-E eligible, we pay foster care maintenance payments from either state (general revenue) funds or from Title XX funds.
- For children who are IV-E eligible and not SSI recipients, we pay foster care maintenance from a fund source that is a mix of federal title IV-E funds, other federal funds, and state funds.

In an effort to help, we developed a child specific notification (attached) for use by lead agencies when seeking SSI for children in foster care.

CONTACT INFORMATION: If you have any question regarding this, please contact Sallie Bond at, (850) 922-0149 or Sallie_Bond@dcf.state.fl.us.

Attachment

Chapter 5

MAINTENANCE ADOPTION SUBSIDY

5-1. Purpose of Adoption Assistance.

a. The purpose of adoption assistance is to facilitate adoption of children with special needs. The law requires efforts to be made to place the child without adoption assistance, except when doing so is not in the child's best interest. If a child is eligible for adoption assistance, the following types of benefits may be available:

- (1) Monthly adoption subsidy payments negotiated and paid to an adoptive parent to assist a child with special needs.
- (2) Medical assistance, which is provided through Medicaid.
- (3) Reimbursement of nonrecurring expenses related to the adoption of an eligible child.

b. Such benefits can provide families otherwise unable to adopt a child with special needs with assistance that will facilitate the adoption and provide the child a permanent home.

c. The funding for adoption subsidy comes from Title IV-E, TANF and state funds. This chapter describes the eligibility requirements for each fund source.

5-2. Adoption Incentive Program.

a. Section 473A of the Social Security Act provides a description of the Adoption Incentive program. A state is eligible for an adoption incentive award if the number of foster child adoptions during a fiscal year exceeds the number of foster child adoptions that occurred during the baseline fiscal year.

(1) As of 2013, the baseline year is 2007. If a state meets the first criteria, the amount of the award is calculated as stated below:

(a) \$4,000 multiplied by the number of foster child adoptions in the State during the fiscal year which exceeded the number of foster child adoptions in the baseline fiscal year;

(b) \$8,000 multiplied by the number of foster child adoptions of children age nine or older during the fiscal year which exceeded the number of foster child adoptions of children age nine or older in the baseline fiscal year; and,

(c) \$4,000 multiplied by the number of special needs children who were adopted and under age nine during the fiscal year which exceeded the number of special needs children who were adopted and under age nine in the baseline fiscal year of 2007.

(2) Awards are pro-rated if insufficient funds are available to make the full awards.

(3) In addition, if funds remain available after making the above awards, a State is eligible to earn an additional incentive award by exceeding the highest ever foster child adoption rate in the State between FY 2002 and the immediately preceding fiscal year. The incentive is calculated by multiplying the State's highest ever foster child adoption rate times the number of children in foster care on the last day of the preceding fiscal year and subtracting that number from the number of foster child adoptions in the State in that fiscal year. That number is rounded to the nearest whole number and then multiplied by \$1,000.

(4) There are no matching requirements for these funds. Payments to a State in a fiscal year shall remain available for use by the State through the end of the succeeding fiscal year.

b. States must identify in the Child and Family Services Plan (CFSP) and Annual Progress and Services Report (APSR) (due June 30 of each year) the services they have provided to children and families as a result of the expenditure of adoption incentive payments. Should more than one fiscal year's incentive funds be expended during a given reporting period, the report should reflect the services provided and identify the fiscal year's funds expended. Actual expenditures of incentive funds must be reported annually on Form SF- 269, Financial Status Report. Performance monitoring is not applicable.

5-3. Adoption Assistance Agreement.

a. The Adoption Assistance Agreement form should be signed by all parties prior to the placement date. No subsidy payment can be made until all parties have signed the subsidy agreement form. The Adoption Subsidy Agreement Information page in FSFN captures information necessary to create or modify the Adoption Assistance Agreement. The adoption case manager will launch the Adoption Assistance Agreement in FSFN once the Adoption Subsidy Agreement Information page is saved with the necessary information. If the adoptive parents decide to not request a subsidy, the adoption case manager has the adoptive parents sign a statement stating that they were informed about the availability of subsidy but decided to not request the subsidy.

b. The process for requesting an increase to the negotiated subsidy must also be explained by the adoption case manager. A written request for an increase in subsidy may be made when the needs of the child have increased or the circumstances of the family have changed in order to meet the child's needs.

c. Under no circumstances can the amount of subsidy be greater than the family foster care board rate that would be paid if the child was in a family foster home setting at the time of the request for an increase in subsidy. A group home or residential facility rate cannot be used for negotiation purposes and to determine the amount of subsidy. It is also critical that the needed services are identified as a part of the negotiation process in order to assess what services will be covered by Medicaid or the family's insurance and what needed services will not be covered by any insurance or community resource.

d. See Attachment 1 to this chapter on Adoption Assistance Agreement Effective Dates.

5-4. Title IV-E Maintenance Adoption Subsidy.

a. Title IV-E maintenance adoption subsidy 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. The intent of Title IV-E maintenance adoption subsidy (MAS) is to promote the adoption of special needs children from the foster care system. The maintenance adoption assistance program financially assists adoptive parents in maintaining their same standard of living, especially foster parents and relatives who developed emotional attachment with children placed in their homes.

c. 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. Private agencies depend

on the CBC lead agency to determine eligibility and provide adoption assistance benefits to children who are relinquished to the custody of private agencies.

d. The adoption staff is responsible for obtaining and documenting in FSFN the needed information to determine the eligibility of foster children for maintenance adoption subsidy. The revenue maximization staff is responsible for determining if a child's eligibility for maintenance adoption assistance program is Title IV-E, TANF, or state funded. All eligibility must be documented and conducted in FSFN.

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 Title IV-E eligibility requirements described below must be met in order to be eligible for Title IV-E maintenance adoption subsidy.

5-5. Eligibility for Title IV-E Maintenance Adoption Subsidy.

a. Every adoptive family must be informed about the availability of adoption subsidy and the purpose for which it is intended. The adoption case manager must ask all potential adoptive parents if they will adopt without subsidy and document this discussion in FSFN and/or in the adoption home study.

b. 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.

c. Each child must meet the following three requirements for maintenance adoption subsidy:

(1) The child must have been permanently committed to the Department or a licensed child placing agency. A child who is voluntarily relinquished to an attorney or a licensed child placing agency may be eligible if the child is determined to meet one of the primary factors for special needs and was determined eligible for Supplemental Security Income prior to finalization or received maintenance adoption subsidy in an initial adoption and this is a subsequent adoption.

(2) The child has one or more factors: is eight years of age or older, is of African American or mixed heritage, is a member of a sibling group being placed together for adoption, has a physical or mental health concern, or has a documented developmental delay.

(3) With the exception of foster parent and relative caregiver adoptions, there must be documentation of a reasonable but unsuccessful effort to place the child without subsidy.

d. The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P. L. 110-351) removed the 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 Assistance Agreement is entered into is a critical event for determining which path to use for the child's eligibility.

Things to Remember

A child having a significant emotional attachment to their foster parent can only be used as a special needs factor for State/General Revenue Funding.

5-6. Eligibility for Title IV-E Applicable Child.

a. An Applicable Child is a child who:

- (1) Meets the applicable age for the federal fiscal year (see Table 5-1 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 5-1: 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.		

b. The Applicable Child eligibility requirements must meet the following requirements:

(1) “Special needs,” the Applicable Child must meet the requirements of ALL THREE PARTS of the definition.

(a) 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 is based on evidence by:

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

(b) 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 1.OR 2. below:

- 1. 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.

2. 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:

- 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 two or more members are placed together for adoption.

(c) 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.

(2) The Applicable Child with special needs must MEET ONE of the four eligibility requirements described in paragraphs (a), (b), (c), or (d) below at the time of the initiation of adoption proceedings:

(a) 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:

- 1. 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,
- 2. 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.

(b) 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.

(c) 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:

- 1. 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,
- 2. A voluntary placement agreement; or,

3. A voluntary relinquishment.

(d) 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.

(3) Additional Requirements for Applicable Child. All other eligibility requirements in paragraphs 5-8, 5-9, 5-10, 5-11, 5-12, 5-19 and 5-20 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.

5-7. Eligibility for Title IV-E Non-Applicable Child. A child who does not meet applicable child criteria is tested for non-applicable child.

a. 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:

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

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

b. The Department/CBC agency must determine that there exists a specific factor or condition which makes it reasonable to conclude that the child cannot be adopted without providing Title IV-E adoption assistance or Title XIX medical assistance. Evidence for this factor or condition includes a child who meets one of the following criteria:

- (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 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.

c. The Department/CBC agency must have evidence and document that a reasonable but unsuccessful effort to place the child without providing adoption assistance was made.

(1) The only exception to this requirement is a situation 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), such as a foster parent or relative caregiver while in their care as a foster child.

(2) 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.

(3) 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.

Things to Remember

Although this is not an eligibility factor, 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.

d. The Not Applicable Child with special needs must MEET 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.

NOTE: Do not apply additional eligibility requirements that are not in federal regulation or statute.

(1) The 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.

(b) 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. Refer to paragraph 4-10 of this operating guide regarding the local protocol with SSA.

(c) 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.

(d) The adoption case manager must advise the adoptive family about the child's receipt of Supplemental Security Income (SSI) and that it is their responsibility to contact the Social Security Administration (SSA) when the adoption is finalized.

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

(3) The child was eligible for Title IV-E adoption assistance in a previous adoption.

(a) The 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. Evidence includes verification of Title IV-E adoption assistance payment, Notice of Eligibility for Title IV-E Adoption Assistance, etc.

(b) 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).

(c) 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.

(d) Current background checks and abuse registry checks must be completed.

Things to Remember

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

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.

(4) The child was eligible for Aid to Families with Dependent Children (AFDC) at the time of the most recent removal. This determination is a part of the Title IV-E foster care eligibility determination and system derived. See paragraph 4-7 of this operating procedure.

e. If an 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 (consistent with section 472(a)(2)(B) and 473(a)(2)(A)(i)(I) of the Act) made on behalf of the child 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.

Things to Remember

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.

f. If a child's removal from his/her home is court-ordered, the first court order removing the child from the home must have a finding to the effect that remaining in the home would be contrary to the child's welfare.

(1) 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.

(2) 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.

NOTE: A child committed to or under the responsibility for placement and care of a licensed private adoption agency or private attorney may be Title IV-E eligible.

g. 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 circumstance:

(1) The 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, licensed 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 removed 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.

5-8. Additional Eligibility Requirements for Title IV-E Maintenance Adoption Subsidy. The following requirements apply for both the applicable and non-applicable child.

a. Citizenship and Immigration Status. The 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 subsidy, the 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 Title IV-E eligibility criteria after the 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. Furthermore, neither federal or state funds may be used to pay adoption assistance in this situation.

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) The Adoption Assistance Agreement must be completed and saved in FSFN. All elements must be filled in prior to execution of the agreement. The agreement must be signed by the adoptive parent(s) and Department/CBC representative.

(3) 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).

5-9. 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 that:

(1) 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) The child is no longer receiving any support from the adoptive parents. "Any support" includes various forms of financial support. The Department/CBC 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/CBC 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) 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.

5-10. 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; or,

(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 Adoption Assistance Agreement must be fully executed prior to the finalization of the adoption. When the request for Title 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 launched in FSFN, completed, signed and dated with the current date. Case notes must reflect the hearing decision and 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.

5-11. 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 Title IV-E adoption assistance would not be available.

b. While Title IV-E adoption assistance is not available, temporary cash assistance may be an appropriate form of assistance for 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.

5-12. 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 Title IV-E eligible and receiving SSI:

(1) For a child who is receiving SSI at the time of placement in the adoptive home, and prior to the adoption finalization, the CBC agency continues to be the payee for the child’s SSI benefit. The maintenance adoption subsidy shall be paid from state funds and shall be offset by/deducted from the child’s SSI benefit, 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.

(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 5-2: 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 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.

5-13. TANF Funded Maintenance Adoption Subsidy (MAS). TANF funded Maintenance Adoption Subsidy (MAS) provides maintenance adoption subsidy to special needs children residing in Florida

who have been determined ineligible for Title IV-E adoption assistance, and whose income is below 200% of the FPL.

a. An eligibility determination for TANF MAS funds must be completed for all special needs children who have been determined ineligible for Title IV-E adoption assistance. To be eligible for TANF funded MAS, the child must meet the following requirements.

- (1) Determined ineligible for Title IV-E maintenance adoption subsidy;
- (2) Not reached his or her 18th birthday;
- (3) Never been emancipated;
- (4) Resides in Florida;
- (5) Is a U. S. citizen or a qualified non-citizen;
- (6) Determined to be a child with special needs;
- (7) Has gross income below 200% of the current FPL; and,
- (8) Is living with a specified relative (adoption finalization establishes a specified relative relationship between the child and his or her adoptive parents).

b. Initial Eligibility Determination for TANF MAS.

(1) An initial eligibility determination for TANF MAS funds must be completed prior to adoption finalization.

(2) When the child is determined ineligible for Title IV-E Adoption Assistance:

(a) The child welfare staff will review and validate information in the eligibility module on FSFN adoption page.

(b) The supervisor or designee will review the application information for accuracy and completeness, and determine the child's eligibility for TANF MAS in FSFN.

(c) The supervisor or designee approving the child's eligibility cannot be the same person who initiated the application.

(3) If a specified relative is the prospective adoptive parent, the MAS may be paid from TANF beginning the date of placement. The date of placement is the effective date on the AAA.

(4) For non-relative adoptions, the procedures outlined below must be followed:

(a) From adoption placement to finalization, the MAS must be paid with state funds. FSFN will determine the TANF MAS ineligible due to relationship not being established.

(b) At finalization (when final decree of adoption is entered in FSFN), an initial TANF MAS will be created in the post adoption case.

(c) At finalization, the Adoption Assistance Agreement must be updated in FSFN as appropriate. The effective date is the date of adoption finalization.

c. The child's continued eligibility for TANF MAS must be redetermined every 12 months.

(1) The five eligibility factors specific to the child to be considered at the annual redetermination are:

- (a) Under age 18;
- (b) Not emancipated;
- (c) Gross income below 200% of the FPL;
- (d) Resides in Florida; and,
- (e) Resides with a specified relative.

(2) Only questions applicable to the redetermination will be enabled in FSFN. Information will be system derived (pre-populated) and is user modifiable.

(3) FSFN will generate an Eligibility Redetermination Due Report 60 days prior to the eligibility expiration date. Child welfare staff must:

- (a) Print the TANF Adoption Eligibility Redetermination Worksheet.
- (b) Send the TANF Adoption Eligibility Redetermination Worksheet to the adoptive parents 60 days prior to the expiration date.
- (c) If not returned, resend at 30 days from expiration date.
- (d) If still no response, the post adoption case manager or designee will call the parents to obtain the information. This conversation and information must be entered in case notes.

(4) When information is received, process eligibility redetermination in FSFN and update the Adoption Assistance Agreement (AAA), if necessary.

- (a) If the child is eligible, make no changes to the Adoption Assistance Agreement.
- (b) If the child becomes ineligible for TANF MAS, confirm that the system updates the eligibility and code to General Revenue.

NOTE: An updated AAA is not generated when there is a change in fund source from TANF to General Revenue (state funds).

(c) If the eligibility period has expired and the information not received, process the eligibility redetermination. The child is ineligible for TANF MAS. Child welfare staff will confirm that the system updates the eligibility and code to General Revenue.

(d) If the TANF Adoption Eligibility Redetermination Worksheet is received after the expiration date, a TANF MAS redetermination is completed.

d. The child's subsidy record must include the following:

- (1) Documentation of child's ineligibility for Title IV-E.
- (2) Final Decree of Adoption.

(3) Documentation of child citizenship status. (For children who are U.S. citizens, the child's birth certificate and/or Declaration of Citizenship are sufficient documentation.)

(4) Reported changes that affect eligibility status.

e. Events Requiring Review of Continued Eligibility.

(1) A child's continued eligibility for TANF MAS must also be reviewed when one of the changes listed below occurs.

(a) Child becomes emancipated;

(b) Child reaches 18th birthday;

(c) Parents no longer legally responsible for the support of the child (e.g., parent's rights terminated, or child enlists in the military);

(d) Family no longer resides in Florida; or,

(e) Child's income changes and becomes equal to or greater than 200% of FPL.

(2) The reported change must be documented in the child's FSFN case record and acted upon as appropriate.

(3) If the reported change(s) result in the child no longer being TANF eligible (such as income is at or more than 200% of FPL, or child and family no longer resides in Florida), the eligibility in FSFN will be "Adoption Subsidy – Non IV-E/Non-TANF."

(4) If the reported change(s) results in the child being no longer eligible for MAS from any source (such as child reaching 18th birthday, emancipation, or parent no longer legally or financially responsible for child), the MAS must cease.

5-14. State/General Revenue Funded Adoption Assistance.

a. The state of Florida makes available adoption assistance to prospective adoptive parents who plan to adopt special needs children in the state's foster care system (s. 409.166, F.S.). The assistance includes, among other things, a maintenance subsidy, medical assistance, Medicaid, reimbursement of nonrecurring expenses associated with the legal adoption and a tuition exemption at a postsecondary career program, community college, or state university.

b. The state funded adoption assistance is granted only when it is determined that the child is ineligible for both Title IV-E and TANF MAS funding.

c. The eligibility fund source defaults to General Revenue funds when the special needs child is ineligible for Title IV-E and TANF.

d. Each child must meet the following three requirements for maintenance adoption subsidy:

(1) The child must have been permanently committed to the Department or a licensed child placing agency. A child who is voluntarily relinquished to an attorney or a licensed child placing agency may be eligible if the child is determined to meet one of the primary factors for special needs and was determined eligible for Supplemental Security Income prior to finalization or received maintenance adoption subsidy in an initial adoption and this is a subsequent adoption.

(2) The child has a significant emotional attachment to the foster parent (this should seldom be the only primary factor) or has one or more of the primary factors: is eight years of age or older, is of African American or mixed heritage, is a member of a sibling group being placed together for adoption, has a physical or mental health concern, or has a documented developmental delay.

(3) With the exception of foster parent and relative caregiver adoptions, there must be documentation of a reasonable but unsuccessful effort to place the child without subsidy.

5-15. Disruption/Dissolution of Placement in the Adoptive Parents' Home.

a. Disruption. 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.

(1) 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. FSFN must be updated to reflect the child's current placement status. Revenue maximization staff reviews and saves the updated information as needed. CIC specialist is automatically noticed of the child's placement status and of any other changes in the child's circumstances.

(2) If the child was not eligible at the point of his/her latest removal from home, the child shall again be non-Title IV-E. FSFN must be updated to reflect the child's current placement status. Revenue maximization staff reviews and saves the updated information as needed. CIC specialist is automatically noticed of the child's placement status and of any other changes in the child's circumstances.

b. Dissolution. 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). See Chapter 4, Title IV-E Foster Care, of this operating procedure.

5-16. 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.

5-17. 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.

5-18. International Adoptions.

a. 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. 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 an 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 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. Accordingly, the Department/CBC agency and the adoptive parent(s) must enter into an Adoption Assistance Agreement prior to the finalization of the adoption.

5-19. Non-Recurring Expenses of Adoption.

a. Non-recurring expenses of adoption are reasonable and necessary costs 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. Examples of these are adoption fees, court costs, attorney fees and other expenses.

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. (See paragraph 5-6b(1) of this operating procedure.)

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

(5) 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.

h. 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.

5-20. Adoption Assistance Medicaid. All children who are determined eligible for maintenance adoption subsidy are also eligible for Adoption Assistance Medicaid. The Child in Care (CIC) specialist is responsible for making the needed changes when a child changes from Foster Care Medicaid to Adoption Assistance Medicaid and further changes after the adoption finalization. Child Welfare staff must record changes in FSFN within 48 hours. The adoption case manager, prior to finalization and the post adoption services case manager, after finalization, are responsible for communicating with the Child in Care specialist when the child's Medicaid needs to be updated.

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

(1) Any child who is eligible for Title IV-E adoption subsidy under an 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.

(2) A child that has been determined eligible for Title IV-E adoption subsidy 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. FSFN automatically transmits the eligibility information to CIC for processing the Medicaid.

(3) 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.

(4) Title IV-E eligibility 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.

(5) When a Title IV-E eligible child moves out of Florida, the Child Welfare staff 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 Child Welfare staff complete the appropriate documentation and process as instructed by the Office of Child Welfare, ICAMA unit.

b. Adoption Assistance Medicaid Coverage for a Child Not Title IV-E Eligible.

(1) Any child who is eligible for TANF or state funded adoption subsidy under an Adoption Assistance Agreement is eligible to receive Title XIX Medicaid in his/her state of residence

(2) If a child is not Title IV-E eligible and moves to another state, the parents, with the assistance of the Child Welfare staff, must contact the new state to ascertain whether that state will provide 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 consistent with the terms of the state's Title XIX plan. In order to prevent premature Medicaid closure, CIC must be notified when a child is residing in another state and *is retaining* Florida Medicaid coverage

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 CIC specialist will complete the annual Medicaid eligibility review and forward a Notice of Case Action to be scanned into the child's case record and the eligibility will be updated in FSFN on the Medicaid page.

NOTE: If the Adoption Assistance Agreement is terminated prior to the child's 18th birthday, FSFN automatically transmits the change to FLORIDA.

Things to Remember

The Revenue Maximization specialist will:

- Review and validate the information in the eligibility and/or Medicaid module for accuracy; and,
- Save the information in FSFN for Medicaid application.

FSFN will electronically transmit eligibility information to FLORIDA on a daily basis.

CIC will determine Medicaid eligibility.

- The Medicaid results will appear on the Medicaid page in FSFN.
- The Medicaid card (gold card) will be sent to the notification address.

ADOPTION ASSISTANCE AGREEMENT EFFECTIVE DATES

Please see below in regards to clarification of the definition of the effective date on the Adoption Assistance Agreement form (upper right corner) and date that the first subsidy payment may be made.

The effective date of the Adoption Assistance Agreement (AAA) is the beginning date that the eligibility determination is effective.

1. For Initial Adoption Subsidy Request made before Adoption Finalization

- The eligibility will be effective on the date the child was placed with the family as an adoptive placement and the Memorandum of Agreement was signed. If not completed on the same date, the effective date will be the latter of the two.
- The effective date can be a date prior to all signature dates on the AAA form, but cannot be a date prior to the date of the last signature on the Memorandum of Agreement.
- Subsidy payments cannot be provided to the family until all parties have signed the AAA.
- Once the AAA is signed, by all parties, payments are made back to the effective date.

2. For Initial Adoption Subsidy Request made after Finalization

- When a family submits a request for subsidy after finalization, DCF must send a denial letter because there is no AAA signed and approved prior to finalization, as required by law. If a stipulation or 120 hearing results in an order requiring subsidy be approved, the effective date is defined as the date the family made their request, in writing, to the case management organization responsible for approving an initial adoption subsidy.

3. For Request for a Change in Adoption Subsidy Amount

- The effective date is the date that the family requests, in writing, a change in the child's adoption subsidy amount.
- The new adoption subsidy amount cannot be provided to the family until all parties have signed the new AAA.
- Once the AAA is signed, by all parties, payments are made back to the effective date.

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 CF- 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.