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**Series** 1000: Funding and Fiscal Management

**Policy Name:** Adoption Eligibility

**Policy Number:** 1012

**Origination Date:** November 1, 2013

**Revision Date:** July 1, 2018

**Regulation:** P. L. 96-272; P. L. 104-188; P. L. 105-89; 42 U.S.C. 673  
65C-16 F.A.C. DCF CFOP 175-59.

**Attachments:** Exhibit A - Title IV-E Maintenance Adoption Assistance Checklist for Not Applicable Child  
Exhibit B - TITLE IV-E FOSTER CARE CHECKLIST  
Exhibit C – Adoption Subsidy Title IV-E Eligibility/Screening Worksheet

**Policy:** To ensure capitalization of federal funding for Adoption Subsidies through eligibility determination for all children placed in adoption placements.

**Scope:** Communities Connected for Kids, Inc. will be determining funding eligibility on all children in adoption placements. Communities Connected for Kids will complete determination processes on all children to maximize the use of the most restrictive funding stream to support the approved subsidy. Funding streams available to support adoption subsidies on behalf of eligible children as follows:

- Title IV-E
- TANF
- State Funds (Non IV-E)

As of October 1, 2006, the State of Florida was granted a Federal Waiver for Title IV-E foster care. Based on such implementation all children placed in licensed foster care after October 1, 2006 are presumed Title IV-E foster care eligible. In order for a child to be deemed eligible for Title IV-E Adoption Assistance they must be determined Title IV-E

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**Foster Care Eligible whether the Title IV-E foster care determination was made pre or post waiver.**

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1. **Title IV-E Federal Adoption Assistance**

a. Communities Connected for Kids provides adoptions subsidies to eligible children under the Title IV-E Adoption Assistance Program who meet eligibility requirements for Aid to Families with Dependent Children (AFDC) or the Supplemental Security Income (SSI) program (Public Law 96-272, the Adoption Assistance and Child Welfare Act, Title IV-E of the Social Security Act). The program provides the following:

- (1) maintenance adoptions subsidy payments
- (2) non-recurring reimbursement expenses regardless of IV-E eligibility incurred in the adoption process such as:
  - (a) court costs
  - (b) attorney fees
  - (c) other exams related to the adoption
  - (d) expenditures for physical exams for adoptive parents or the special needs child
  - (e) reasonable travel expenses necessary to complete placement or adoption process
- (3) Medicaid coverage

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

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- c. Communities Connected for Kids prohibits the delay or denial of a foster or adoptive placement based on the race, color or national origin of the prospective foster or adoptive parents or the child involved under Public law 104-188 which also includes a penalty structure and corrective action planning provision for violations.
  
- d. Communities Connected for Kids ensures the development of plans to make reasonable efforts to finalize the permanency plan for children and the effective use of cross-jurisdictional resources to facilitate timely permanent placements for children awaiting adoption under Public Law 105-89, the Adoption and Safe Families Act of 1997.
  
- e. Communities Connected for Kids is mandated to follow a safety provision for children placed in foster and adoptive homes. The provision requires the CBC conduct criminal records checks on prospective adoptive parents prior to approving the adoptive family placement for a child under Public law 105-89

2. Universal Title IV-E Eligibility Requirements.

a. Communities Connected for Kids follows the provisions outlined under the Title IV-E adoption subsidy program's specific eligibility requirements that must be met prior to claiming federal reimbursement. The requirements include the determination of "special needs" prior to the time the adoptions petition is (was) filed and the following criteria must be met and documented in the child's file to meet the "special needs" definition under [42 U.S.C. 673, 409.166, F.S., 65C-16, F.A.C.] :

- (1) Termination of Parental Rights (TPR) order must have been obtained; **and**

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- (2) A specific factor or condition exists making it reasonable to conclude that the child cannot be placed for adoption without providing adoption assistance. The specific factors or conditions include a child who is:
- (a) Eight years of age or older; or,
  - (b) Mentally retarded; or,
  - (c) Physically or emotionally handicapped;
  - (d) Other clinically diagnosed disability; or,
  - (e) Of black or racially mixed parentage (at least one parent is black); or,
  - (f) A member of a sibling group of any age, provided two or more members of the group remain together for purposes of adoption; **and**
- (3) A reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance. Exceptions include the following:
- (a) adoption by foster parent/caretaker
  - (b) circumstances that are not in the child's best interest

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(4) Prospective adoptive parent(s) must be asked if they can adopt the child without subsidy. If the parent(s) respond they cannot adopt without subsidy, efforts to place without subsidy have been met. Specific factor(s) that make the child difficult to place and a description of the efforts to place a child without subsidy (or the exception) must be documented in the child's case file.

(a) Financial need of the child must be established.

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

(c) The initial adoption assistance agreement must be signed by all parties **prior** to the adoption finalization.

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

3. Categorical Eligibility Requirements for Title IV-E Adoption Assistance.

In addition to the eligibility criteria listed in paragraph 2 of this policy and procedure, a child must be eligible under one of the categories listed below

(1) Child meets requirements for AFDC Eligibility. When the child's eligibility for adoption assistance is based on meeting the eligibility criteria for AFDC, his/her eligibility must be determined and documented at two intervals:

(a) The most recent removal from his/her home and

(b) The time the adoption petition is filed.

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(2) The child's latest removal from the home of a specified relative must be the result of a judicial determination (court order) or a voluntary placement agreement documenting the following:

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

**NOTE:** When this does not occur the child is ineligible for Title IV-E adoption assistance.

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

- (1) The child must be under the placement and care responsibility of the CBC or another public agency with which the department has a IV-E agreement.
- (2) Title IV-E foster care maintenance payments must have been made on his/her behalf.
- (3) When the child remains in foster care placement beyond 180 days, there must be a judicial determination made within the first 180 days of the voluntary placement agreement that it is contrary to the child's welfare to return to his/her home.

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

(1) The child must be voluntarily relinquished to the CBC (or a public agency with which the department has a Title IV-E agreement) or to a private, nonprofit agency; and,

(2) There is a petition to the court within six months of the time the child last lived with a specified relative; and,

(3) There is a subsequent judicial determination (court order) to the effect that remaining in the home was contrary to the child's welfare. As such, the child will be treated as though s/he was judicially removed rather than voluntarily relinquished.

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

(e) Financial Need. To meet the AFDC criteria, the child must be determined to be a "needy" child at the time of removal and at the time the adoption petition is filed if at the time of removal the resources available to the family were below \$10,000 and if the family income is below the CNS for the family size.

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(f) Deprivation. Deprivation of parental support must be established at the time of removal and at the time the adoption petition is filed. The following document serves as documentation of deprivation:

- TPR order

(3) The child is eligible For Supplemental Security Income (SSI) Benefits for the

Title IV-E adoption assistance if s/he has been determined eligible for SSI prior to the time the adoption petition is filed. Documentation required to be in the file is as follows:

- SSI Award letter

(4) The child is eligible as the child of a minor parent for the Title IV-E adoption assistance in this circumstance if the child's parent was in foster care and was receiving Title IV-E foster care maintenance payments that covered both the minor parent and the child at the time the adoption petition is filed. If the child and parent were separated while in foster care prior to the time of adoption the child's eligibility for IV-E subsidy is based on the child's individual circumstance.

(5) The child is eligible due to prior Title IV-E Adoption Assistance eligibility in situations of a prior adoption where a child received Title IV-E adoption assistance, and the adoption later dissolved or the adoptive parent(s) died. In these cases, the child(ren) continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. Prior to the finalization of the subsequent adoption the CBC must determine that the child is one with "special needs". This criterion applies to children who are subsequently adopted after October 1, 1997. The documentation required is as follows:

(a) CIC Notice of Case Action

(b) Adoption Assistance Agreement indicating IV-E eligibility

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**(c) Payment history printout indicating payment of IV-E adoption assistance**

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

- a. At the time of a subsidy determination the CW/CBC staff or designee is responsible to collect necessary supporting documentation to determine Foster Care IV-E Eligibility prior to IV-E Adoption assistance eligibility by completing Title IV-E Foster Care Initial Checklist
- b. The child's eligibility for adoption assistance must be fully documented in the child's case file. Once the child is determined eligible for Title IV-E adoption assistance, the child remains eligible until s/he turns 18 or otherwise emancipate, the adoptive parents are no longer legally or financially responsible for the child or the child no longer receives support from the adoptive parents.
- c. Prior to adoption placement, a child must be screened for potential IV-E eligibility using the Adoption Subsidy Title IV-E Eligibility/Screening Worksheet (CF-FSP 5146). This form must be completed by the CW/CBC staff or designee responsible for the case, reviewed and signed by the supervisor. An employee of the CBC must review the form to determine if the child is one with "special needs" and determine if the child is eligible or potentially eligible for Title IV-E adoption assistance. If as a result of this screening, a CIC eligibility determination is warranted, complete/update the 2626A form and forward to CIC for an initial IV-E determination or re-determination (per subsection 3(a) of this operating procedure).
- d. If the child appears to be eligible for Title IV-E adoption assistance based on AFDC criteria, a final determination of eligibility must be made by the Economic Self-Sufficiency Child in Care Specialist (CIC-ESS). The child's IV-E eligibility status must be documented at two intervals: at the time of the latest removal and at the time the adoption petition is filed.

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(1) Latest Removal.

- (a) If the child was eligible for and received Title IV-E foster payments, a copy of the CIC application and Notice of Case Action must be placed in the child's adoption subsidy file to document IV-E eligibility at removal.
- (b) If a determination for Title IV-E eligibility has not been made for the child (such as a child who has not been in licensed foster care, a child whose cost of foster care was paid via Title IV-A/EA, etc.) a Child in Care Medicaid and Title IV-E Application must be completed based on the removal home situation and submitted to the CIC-ESS. The CIC-ESS will make an eligibility determination and send a manual Notice of Case Action to the assigned CW/CBC staff. The Notice of Case Action must be filed in the child's case record and available for audit purposes.

(2) When The Adoption Petition Is Filed.

- (a) The child's continued financial need and deprivation must also be reviewed at the time the adoption petition is filed. The CW/CBC staff or designee must complete the Child in Care Eligibility Review and Communication Worksheet (CF-ES 2694) informing the CIC-ESS of the child's status (i.e., TPR) and of the income and assets available to the child so that financial need and continued deprivation can be reviewed.
- (b) If after the initial screening, the child appears to be ineligible for Title IV-E adoption assistance a Child in Care Medicaid and Title IV-E Application must be completed based on the removal home situation and submitted to the CIC-ESS to confirm the child's ineligibility. The CIC-ESS must submit a Notice of Case Action to the Communities Connected for Kids eligibility determination specialist as documentation of the child's ineligibility for Title IV-E adoption assistance. The child's Maintenance Adoption Subsidy (MAS) may be funded from other available funding sources, as appropriate.

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- (c) A current adoption assistance agreement documents the child's eligibility for Title IV-E, Medicaid and other services agreed upon in the initial assistance agreement and must be signed and dated by all parties **prior** to authorizing adoption assistance payments.
- (d) Documentation of the child's eligibility for Title IV-E adoption assistance must be maintained and made available for audit purposes. (The Title IV-E Adoption Subsidy Checklist has been developed as a documentation requirement guide; see Attachment 2 to this chapter.)

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5. Adoption Assistance Agreement.

Title IV-E Adoption Assistance is available on behalf of a child if s/he meets all of the eligibility criteria and the CBC/CW enters into an adoption assistance agreement with the prospective adoptive family prior to the finalization of the adoption. Florida's Adoption Assistance Agreement (CF-FSP 5079) is designed to document the child's eligibility type, the benefits to be provided, the amount of the benefits/assistance to be provided, and the duration of the agreement. The following requirements must be met prior to making Title IV-E adoption assistance payments:

- a. The child's Title IV-E eligibility must be determined and documented on the fully executed adoption assistance agreement.
- b. The initial adoption assistance agreement should be signed and dated by the prospective adoptive parent(s) and the CBC/CW employee at or prior to the time of placement in the adoptive home; but must be signed and dated by all parties prior to the adoption finalization.
- c. Title IV-E adoption subsidy payments must not be made prior to documentation of the child's IV-E eligibility and prior to the adoption assistance agreement being signed by all parties.
- d. Criteria for negotiating Subsidy
  - (1) The subsidy amount may not exceed the current foster board maximum for the respective age of the child at the time of negotiation.
  - (2) Subsidy may only be considered and readjusted to meet the documented additional needs of the child and or changing needs of the adoptive parent.

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- e. Once the Adoption Assistance Agreement is signed and is in effect, adoption assistance can only be terminated under three circumstances. These circumstances are (1) the child has reached the age of 18; (2) the parent is no longer legally responsible for support of the child; or (3) it is determined that the child is no longer receiving support from the parents.

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

a. The Social Security Act requires that the CBC make "reasonable efforts" to place a child for adoption without adoption assistance. The best interests of the child should be the overriding factor even if suitable adoptive family has been identified that cannot adopt the child without a subsidy.

b. Reasonable efforts must be made to facilitate the adoption without a subsidy. If the adoptive placement occurs without subsidy:

- (1) Assistance agreement must note \$0.00 as the subsidy
- (2) All discussion must be documented in file
- (3) If adoptive parent declines to sign agreement, a disclaimer form (CF-FSP 5(72)) must be signed indicating the decision to decline subsidy. Child will not be eligible for Medicaid benefits or non-recurring adoptive expenses

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

- (1) Registration of the child on the adoption exchange. When the child is ready for adoption and a prospective family has not been identified, the results of the adoption exchange, etc must be documented in the file
- (2) Consideration of several families for placement of the child and documentation of the outcome(s) in the child's case file. The selection process must take into consideration the best interest of the child and not violate MEPA requirements.

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

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

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

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

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

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

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

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

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

b. If the fair hearing officer determines that benefits have been wrongfully denied under the Title IV-E adoption assistance program, the effective date of the Title IV-E adoption assistance must not be earlier than the date the family requested assistance. For cases in which there is no signed adoption assistance agreement, a new adoption assistance agreement must be completed, signed and dated with the current date. A notation must be made showing the intention to revert to and to have the agreement effective as of the prior date.

c. There are times when the department and the adoptive parents are in agreement that a Title IV-E adoption subsidy should have been paid. In such cases, a trial-type evidentiary hearing would not be necessary. However, in order to meet federal policy, the undisputed documentary evidence must be presented to the fair hearing officer for review, and a final determination made by the hearing officer must be submitted in writing. The effective date of the Title IV-E adoption assistance must not be earlier than the date the family requested assistance.

**8. 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.

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

(1) For a child that is receiving SSI at the time of placement in the adoptive home, prior to the adoption finalization, the CBC continues to be the payee for the child's SSI benefit. The maintenance adoption subsidy shall be paid from state funds and be offset by/deducted from the child's SSI benefits, as this is considered the child's cost of care.

The SSI benefits in excess of the maintenance adoption subsidy/cost of care, must be deposited into the child's trust fund account. Also refer to 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 CBC does not collect revenue from both federal programs. Thus, the expenditure type code shall be "411" in ICWSIS and "Non IV-E" in FSN until finalization.

**NOTE:** For fiscal purposes and to document the reason for using a non-Title IV-E expenditure code, the following statement should be written at the top edge of the adoption assistance agreement "Child Welfare Vouchering System Coded NON-TITLE IV-E until Finalization."

(3) At finalization, the adoptive parents must be advised to contact the local Social Security Administration (SSA) office and apply to be the designated representative payee of the SSI benefit for their child **and** to inform the SSA of the maintenance adoption subsidy payments made on behalf of the child. SSA will consider the adoptive parents' income as part of the eligibility criteria for the child's continued SSI eligibility. If SSA determines the child to be SSI eligible based on the child's continued disability and the income of the adoptive parents, then SSA will deduct the amount of the Title IV-E adoption assistance payment from the SSI benefit amount. The difference will be the amount of the SSI benefit for the child to be paid to the adoptive parents.

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

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

(5) After finalization of the adoption, the court's direction should be sought regarding the money held in the child's trust sub-account(s).

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

## 9. Non-Recurring Adoption Expenses.

a. A child need not be Title IV-E eligible in order for the CBC to enter into an agreement with the adoptive parent(s) for reimbursement of non-recurring adoption expenses. Additionally, the child does not have to be under the responsibility for care and placement of the State. The child must, however, meet the definition of a "special needs child" as defined in paragraph 5-2a(2) of this operating procedure.

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

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- (1) The initial adoption assistance agreement must specifically indicate the nature and estimated amount of the non-recurring expenses to be paid.
- (2) The maximum payment allowable for reimbursement of non-recurring expenses is limited to \$1,000 per child. Whether siblings are adopted, separately or together, each child is treated as an individual with separate reimbursement up to the maximum amount of \$1,000 per child.
- (3) There shall be no income eligibility requirement for adoptive parents in determining whether payments for non-recurring expenses will be made.
- (4) The adoptive parents must provide the CBC with receipts or with requests for payment from service providers. The adoptive parents shall be advised to hold such receipts until all are received so that a one-time payment covering all expenses can be made.
- (5) Reimbursements must be made after the adoption is finalized. Every effort must be made to complete these transactions within three months after the adoption finalization.

10. Medicaid Coverage for Title IV-E Eligible Children.

- a. A child that has been determined eligible for Title IV-E adoption assistance is also eligible for Medicaid coverage, without regard to the family income. Medicaid benefits become available at the point the adoption assistance agreement is signed and the child is placed in the adoptive home.
- b. A child's Medicaid eligibility must be re-determined every 12 months. As long as the child has an adoption assistance agreement in effect, he or she will remain eligible for Medicaid. The CIC-ESS will complete the annual IV-E and Medicaid eligibility review and forward a Notice of Case Action to be filed in the child's file.

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

d. When a Title IV-E eligible child moves out of Florida, CBC sends ICAMA documents to the State designee and adoptive parents are notified that the documentation of the child is Title IV-E eligibility has been sent to the receiving State by the State designee to open Medicaid. Communities Connected for Kids will assist the adoptive parents to make contact with the out-of-state agency in order to enroll the child in Medicaid in their new state of residence. To further assist the parents, the adoption counselor may make contact with the out-of-state agency, as appropriate to expedite Medicaid coverage for the child in the new state of residence.

e. If a child is not Title IV-E eligible and moves to another state, the parents, with the assistance of the CBC, must contact the new state to ascertain whether that state will provide its Medicaid services to the child via the Interstate Compact on Adoptions and Medical Assistance (ICAMA). If not, the child's Florida Medicaid will continue. The parent must locate a physician that will

accept Florida Medicaid in the child's new state of residence. The physician must request and be approved as a Florida Medicaid provider, then submit an invoice to Florida for payment. The parent must be advised and encouraged to obtain information and documentation necessary to process the medical claims.

f. When the CBC has agreed to pay for certain specified medical expenses, the adoptive parents shall be advised that Medicaid law requires (and per the adoption assistance agreement) that Medicaid service providers must be used when such are available in the family's community. The CBC must be contacted and approval given prior to selecting and using a non-Medicaid provider. The adoptive parents must also be advised that failure to obtain such advance approval may result in the parent being totally responsible for payment to the non-Medicaid provider for the service. When contacted for such approvals, the CBC is required to explore all other available resources, including Medicaid providers and family insurance, before authorizing the use of a non-Medicaid provider.

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

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

12. Disruption/Dissolution of Placement in the Adoptive Parents' Home

There are times when conflict arises in the adoptive home which necessitates the placement of the child into licensed out of home care. When this occurs, a determination must be made whether to pay the foster care expenditures from Title IV-E or non-Title IV-E funds. The following situations are provided as examples to assist in this determination:

a. When the adoptive placement has not been legally finalized through the court, the child remains in the latest removal episode. The same factors considered at the time of the child's latest removal shall again be considered. If, at the time of the most recent removal, the child was Title IV-E foster care eligible, the child shall again be Title IV-E eligible. The CIC-ESS must be notified of the child's placement status and of any other changes in the child's circumstances.

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

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

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

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

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

(2) That the child is no longer receiving any support from the adoptive parents. "Any support" includes various forms of financial support. The CBC 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 CBC must continue the Title IV-E adoption assistance if it determines that the parent(s), are in fact, providing some form of financial support to the child; or,

(3) That the child has turned age 18.

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

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

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

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

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

(4) Is there an adoption assistance agreement on file?

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

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

agreement with the CBC. This requirement precludes payments to persons other than the adoptive parents who have entered into such an agreement.

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

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

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

b. The eligibility requirements listed in the above paragraphs procedure must be met in order for these children to be eligible for Title IV-E adoption assistance.

16. Inter-Jurisdictional Barriers.

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The Adoption and Safe Families Act (ASFA) prohibits delays or denials of adoptive placements across state or county jurisdictions. Any delays or denials will incur penalties in Title IV-E funding to the state. This applies not only to the CBC but to public and private agencies as well.

**17. Responsibilities of CBC and Other States Agencies in Interstate Adoptions.**

If a state or contracted 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 department/ 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 in other programs.

Approved: Carol DeLoach

Carol DeLoach, CEO

**July 1, 2018**

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