

<h1>ACF</h1> <p>Administration for Children and Families</p>	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
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PROGRAM INSTRUCTION

TO: State, Tribal and Territorial Agencies Administering or Supervising the Administration of Title IV-E of the Social Security Act

SUBJECT: Stafford Act Flexibility for Certain Title IV-E Requirements Related to Extended Title IV-E Eligibility, Licensing, and Foster Care Placements

LEGAL AND RELATED REFERENCES: The Social Security Act - §§472(c)(1)(A)(i), 472(k)(4)(G), 473, and 475(8)(B); 45 CFR §1355.20(a); the Robert T. Stafford Disaster Relief and Emergency Assistance Act - 42 U.S.C. §5121 et seq.

PURPOSE: To provide instruction and procedures to title IV-E agencies on how to request flexibility to meet the specific title IV-E requirements noted in this Program Instruction (PI) as a result of the COVID-19 pandemic and national public health emergency.

BACKGROUND: The President issued a [Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease \(COVID-19\) Outbreak](#) on March 13, 2020. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, pursuant to §319 of the Public Health Service Act (42 U.S.C. §247d), in response to the COVID-19 pandemic. The Secretary of HHS renewed this declaration on April 21, 2020, with an effective date of April 26, 2020. Additionally, the President issued major disaster declarations for many jurisdictions in response to the COVID-19 pandemic.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.) (Stafford Act) provides that federal agencies that administer federal assistance programs may modify or waive administrative conditions of federal assistance programs under certain limited circumstances, as described below:

- There has been a declaration of a major disaster with respect to the applicable geographic area;
- Applicant state or local authorities have requested the modification or waiver; and
- The modifications or waivers are with respect to administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster ([42 U.S.C. §5141](#)).

Major disaster declarations are posted on the Federal Emergency Management Agency (FEMA) website at <https://www.fema.gov/disasters>. COVID-19 resources, including letters to child welfare leaders on flexibilities during this time, may be found at <https://www.acf.hhs.gov/cb/resource/covid-19-resources>.

As a result of the requests from title IV-E agencies about the challenges in meeting certain federal requirements and helping children, youth, and families during the COVID-19 pandemic, we are notifying title IV-E agencies of the following flexibilities for certain title IV-E requirements and the process for requesting such flexibility pursuant to the Stafford Act. In order to request such a modification, a title IV-E agency must complete Attachment A, and if necessary, Attachment B, pursuant to the instructions in this PI. Flexibility under the Stafford Act applies only to jurisdictions that have major disaster declarations and only during the time the title IV-E agency is unable to meet a requirement as a result of the major disaster. The Children's Bureau (CB) identified the following requirements as administrative conditions under the Stafford Act that a title IV-E agency may request flexibility in meeting:

Title IV-E Eligibility for Youth Age 18 and Older: Simplified Process

Title IV-E agencies may opt to extend eligibility for title IV-E foster care maintenance payments, adoption assistance, and guardianship assistance (if operating pursuant to §473(d) of the Social Security Act (the Act) for youth up to age 19, 20, or 21, as elected by the agency (§475(8)(B) of the Act). Typically, title IV-E agencies opt into providing title IV-E assistance to youth age 18 and older by submitting a title IV-E plan amendment that must be approved by CB. CB is exercising its authority under the Stafford Act to allow a title IV-E agency to request a simplified process for extending title IV-E assistance, instead of submitting a title IV-E plan amendment. If the agency will continue to provide extended title IV-E assistance after the end of the major disaster, it must submit a title IV-E plan amendment.

Title IV-E Assistance for Youth Age 18 and Older: Education and Employment Conditions

For title IV-E agencies that opted to extend eligibility for title IV-E assistance with respect to foster care, adoption, and legal guardianship services for youth up to age 19, 20, or 21, the youth must meet education or employment conditions outlined in §475(8)(B)(iv) of the Act. CB identified these requirements as an administrative condition that it may modify under the Stafford Act authority for youth who are unable to fulfill this requirement as a direct result of the pandemic.

Accreditation and Reaccreditation of Qualified Residential Treatment Programs (QRTPs)

Title IV-E requires that facilities be accredited in order to be considered eligible for reimbursement under title IV-E as a QRTP, among other requirements (§472(k)(4)(G) of the Act). However, if conditions related to the COVID-19 pandemic prevent a facility from completing its accreditation or reaccreditation as a QRTP, the title IV-E agency may request flexibility under the Stafford Act to allow claiming reimbursement of title IV-E expenses on behalf of an otherwise eligible child who is placed in the QRTP only during the time the requirement is unable to be met as a result of the major disaster. The facility must meet all other statutory requirements, including that the QRTP is licensed or approved (§472(k)(4)(G) of the Act). As a reminder, title IV-E agencies must meet additional case planning and court approval requirements for a child to be eligible for title IV-E foster care maintenance payments while placed in a QRTP (§§472(k)(3)-(4) and 475A(c) of the Act). The accreditation/reaccreditation process must resume once the major disaster is over and it is practicable to do so.

Provisional Licensure for Foster Family Homes

A title IV-E agency only may claim title IV-E reimbursement on behalf of an otherwise eligible child who is placed in a licensed or approved foster family home in accordance with §472(c)(1)(A)(i) of the Act and 45 CFR 1355.20(a). However, the title IV-E agency may request flexibility under the Stafford Act to allow claiming of

title IV-E reimbursement on behalf of an otherwise eligible child who is placed in a foster family home that is provisionally or conditionally approved or licensed, if the declared major disaster precludes full completion of the licensing process. The title IV-E agency must complete as many of the requirements for licensure as practicable, taking into account local requirements related to physical/social distancing guidelines and shelter in place orders. The title IV-E agency must complete any remaining licensing requirements as soon as it is safe to do so in accordance with local and state health authorities. The title IV-E agency also must ensure that the foster family home is safe for children.

INSTRUCTION: Title IV-E agencies in jurisdictions that have Major Disaster Declarations that want to request flexibility in meeting the requirements of §§472(c)(1)(A)(i), 472(k)(4)(G), or 475(8)(B) of the Act during the major disaster period must complete Attachment A (and Attachment B, if applicable) of this PI and submit it to its [Children’s Bureau Regional Program Office](#).

On Attachment A, the title IV-E agency must:

- Check the box indicating the requirement(s) that the title IV-E agency is requesting flexibility in meeting.
 - For title IV-E agencies requesting flexibility for a simplified process to elect to provide title IV-E assistance to youth age 18 and older (§475(8)(B) of the Act), the title IV-E agency must submit Attachments A and B.
- Indicate that the title IV-E agency’s inability to meet the requirement(s) is a result of the major disaster.

Inquiries to: [Children’s Bureau Regional Program Managers](#)

/s/

Elizabeth Darling
Commissioner
Administration on Children, Youth and Families

Attachment A: Flexibility under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.)

Attachment B: Section 475(8)(B) Title IV-E Assistance for Youth Age 18 and Older: Simplified Process

Title IV-E Agency State/Tribe of _____

FLEXIBILITY UNDER THE Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. §5121 et seq.)

Instructions: Once this document is signed and submitted, it remains in effect during the period of the Major Disaster Declaration related to the COVID-19 pandemic and national public health emergency.

I certify that _____
(Name of State or Tribal Title IV-E Agency)

- a. Requests flexibility in meeting (*mark with X*):
 - i. _____ §472(c)(1)(A)(i) of the Act relating to full licensing of foster family homes (*must complete as much of the licensure requirement as possible, complete any remaining licensing requirements as soon as it is safe to do so, in accordance with state and local health authorities, and must ensure that the foster family home is safe for children*).
 - ii. _____ §472(k)(4)(G) of the Act relating to accreditation or reaccreditation of Qualified Residential Treatment Programs (*limited to situations where the facility's inability to obtain or renew its accreditation is entirely a result of the major disaster and the facility must still meet the other statutory requirements, e.g., licensure/approval, case planning, and court approval requirements. Accreditation or reaccreditation must resume once the major disaster is over, and it is practicable to do so*).
 - iii. _____ §475(8)(B) of the Act providing title IV-E assistance to youth age 18 or older through a title IV-E plan amendment (*only if the title IV-E agency is not already providing up to age 21 pursuant to this provision*). Must also submit Attachment B.
 - iv. _____ §475(8)(B)(iv) of the Act relating to the required education and employment conditions for youth over age 18 to receive title IV-E assistance.
- b. The title IV-E agency is not able to meet the requirement(s) checked above as a result of a Major Disaster:
 - i. _____ (*mark with X*) the COVID-19 pandemic and national public health emergency prohibits or strongly discourages person-to-person contact for public health reasons and a major disaster declaration applies to the geographic area where the agency operates;
 - ii. _____
(describe additional reasoning, if needed)

 (Date)

 (Signature)

Title IV-E Agency State/Tribe of _____

SECTION 475(8)(B) TITLE IV-E ASSISTANCE FOR YOUTH AGE 18 AND OLDER:

SIMPLIFIED PROCESS

Instructions: Once this document is signed and submitted, it remains in effect during the period of the Major Disaster Declaration related to the COVID-19 pandemic and national public health emergency.

I certify that _____
(Name of State or Tribal Title IV-E Agency)

- Has chosen to implement the option in section 475(8)(B) of title IV-E of the Social Security Act to adopt a definition of "child" to include youth over age 18 for title IV-E foster care maintenance payments, adoption, and guardianship assistance (if operating per §473(d) of the Act) during the period of the Major Disaster Declaration related to the COVID-19 pandemic and national public health emergency.
- Will submit a title IV-E plan amendment after the end of the major disaster if the agency will continue to provide title IV-E foster care maintenance payments, adoption, and guardianship assistance (if operating per §473(d) of the Act) with respect to youth over age 18 under section 475(8)(B) of title IV-E of the Social Security Act.

(Date)

(Signature)